SENATE JOURNAL

STATE OF ILLINOIS

NINETY-SECOND GENERAL ASSEMBLY

114TH LEGISLATIVE DAY

TUESDAY, DECEMBER 3, 2002

3:20 O'CLOCK P.M.

No. 114
[Dec. 3, 2002]

The Senate met pursuant to adjournment.

Honorable James "Pate" Philip, Wood Dale, Illinois, presiding.

Prayer by The Most Reverend Daniel R. Jenky, Bishop of the Peoria Diocese, Peoria, Illinois.

Senator Radogno led the Senate in the Pledge of Allegiance.

The Journal of Tuesday, November 19, 2002, was being read when on motion of Senator W. Jones further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

The Journal of Wednesday, November 20, 2002, was being read when on motion of Senator W. Jones further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

The Journal of Thursday, November 21, 2002, was being read when on motion of Senator W. Jones further reading of same was dispensed with and unless some Senator had corrections to offer, the Journal would stand approved. No corrections being offered, the Journal was ordered to stand approved.

REPORTS RECEIVED

The Secretary placed before the Senate the following reports:

A report on Illinois FIRST Program FOR THE RECORD 2002, Fiscal Year 2002 Highway Improvement Accomplishments, submitted by the Department of Transportation.

The Supplement to the Affirmative Action Plan for the Metropolitan Pier and Exposition Authority for the year 2003 submitted by the Metropolitan Pier and Exposition Authority pursuant to the Metropolitan Pier and Exposition Authority Act, as amended (70 ILCS 210/1).

A report, Illinois Bond Watcher, 2002, submitted by the Illinois Economic and Fiscal Commission.

A report, Autumn Update, Revised FY 2003 Estimate and Preliminary FY 2004 Forecast, submitted by the Illinois Economic and Fiscal Commission.

The Fiscal year 2001 Annual Report, Business Enterprise Program, submitted by the Department of Central Management Services.

The foregoing reports were ordered received and placed on file in the Secretary's Office.

COMMUNICATION

EVELYN M. BOWLES
State Senator - 56th District

November 25, 2002

Mr. Jim Harry
Secretary of the Senate
Room 403
State Capitol
Springfield, IL 62706

Dear Secretary Harry:

Effective Tuesday, November 26, 2002, at 9:00 a.m., I hereby resign my position as State Senator of the 56th District.

Sincerely,

s/Evelyn M. Bowles

OFFICE OF THE SECRETARY OF STATE

JESSE WHITE
SECRETARY OF STATE

December 2, 2002

Honorable Jim Harry
Secretary of the Senate
Room 401
Capitol Building
Springfield, Illinois 62706

Dear Mr. Harry:

This office is forwarding herewith copies of the Notice of Vacancy and Legislative Committee Organization from the Democratic Legislative Committee of the Fifty-Sixth Legislative District declaring the existence of a vacancy in the Office of Senator in the Ninety-Second General Assembly in the Fifty-Sixth Legislative District, as a result of the resignation of Evelyn Bowles, effective November 26, 2002.

Also enclosed is the copy of the Democratic Legislative Committee's Certificate of Appointment, along with the Oath of Office, for **William R. Haine, 1407 Liberty St., Alton, Illinois**, who was appointed to fill the vacancy in the Office of Senator, in the 92nd General Assembly for the Fifty-Sixth Legislative District.

Yours truly,

s/Jesse White
Secretary of State

NOTIFICATION OF VACANCY

Mr. Jim Harry
Secretary of the Senate
Room 403, Capitol Building
Springfield, IL 62706

Dear Mr. Harry:

Please be advised that the Democratic Legislative Committee for the 56th Legislative District met on November 26, 2002 and declared that a vacancy exists in the office of Senator in the General Assembly for the 56th Legislative District of the State of Illinois as a result of the resignation of Evelyn Bowles.

You are hereby notified of the vacancy in the office of Senator in the General Assembly for the 56th Legislative District of the State of Illinois as a result of the resignation of Evelyn Bowles.

Dated: November 26, 2002

s/Bob Sprague
Committeeman

s/Mac Warfield
Committeeman

CERTIFICATE OF APPOINTMENT TO FILL VACANCY IN LEGISLATIVE OR REPRESENTATIVE DISTRICT OFFICE

WHEREAS, a vacancy has occurred in the office of State Senator in the 56th Legislative District of Illinois by reason of the resignation of Evelyn Bowles, a duly elected officer of the Democratic Party from the 56th Legislative District of Illinois; and

WHEREAS, the Legislative Committee of the Democratic Party of the 56th Legislative District has met and voted to fill the vacancy in said office, as required by 10 ILCS 5/25-6.

BE IT RESOLVED that the Legislative Committee of the Democratic Party of the 56th Legislative District of Illinois hereby appoints William R. Haine of 1407 Liberty St., Alton, Illinois, a member of the Democratic Party, to the office of State Senator in the Legislative District of Illinois.

s/Mac Warfield
CHAIRMAN

36,760
Vote Cast

s/Bob Sprague
SECRETARY

9,243
Vote Cast

DATED: November 26, 2002

STATE OF ILLINOIS

I, **William R. Haine**, do solemnly swear that I will support the Constitution of the United States, and the Constitution of the State of Illinois, and that I will faithfully discharge the duties of the office of Senator in the General Assembly for the 56th Legislative District of the State of Illinois to the best of my ability.

s/William R. Haine

Subscribed and sworn to before me, 26th day of November, 2002.

s/Nicholas G. Byron
Judge, 3rd Judicial Circuit
of the State of Illinois

REPORTS FROM STANDING COMMITTEES

Senator Petka, Vice-Chairperson of the Committee on Executive to

which was referred **Senate Bill No. 2079** reported the same back with the recommendation that the bill do pass.
Under the rules, the bill was ordered to a second reading.

Senator Petka, Vice-Chairperson of the Committee on Executive to which was referred **House Bill No. 2643** reported the same back with the recommendation that the bill do pass.
Under the rules, the bill was ordered to a second reading.

Senator Petka, Vice-Chairperson of the Committee on Executive to which was referred **House Bills numbered 2721 and 3557** reported the same back with amendments having been adopted thereto, with the recommendation that the bills, as amended, do pass.
Under the rules, the bills were ordered to a second reading.

Senator Petka, Vice-Chairperson of the Committee on Executive, to which was referred **Senate Resolution No. 517** reported the same back with amendments having been adopted thereto, with the recommendation that the resolution, as amended, be adopted.
Under the rules, **Senate Resolution 517** was placed on the Secretary's Desk.

Senator Petka, Vice-Chairperson of the Committee on Executive, to which was referred **House Joint Resolution No. 83** reported the same back with the recommendation that the resolution be adopted.
Under the rules, **House Joint Resolution 83** was placed on the Secretary's Desk.

Senator Peterson, Vice-Chairperson of the Committee on Insurance and Pensions to which was referred **House Bill No. 3080** reported the same back with the recommendation that the bill do pass.
Under the rules, the bill was ordered to a second reading.

Senator Syverson, Chairperson of the Committee on Public Health and Welfare to which was referred **House Bill No. 5218** reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.
Under the rules, the bill was ordered to a second reading.

Senator Bomke, Chairperson of the Committee on State Government Operations to which was referred **House Bill No. 4446** reported the same back with amendments having been adopted thereto, with the recommendation that the bill, as amended, do pass.
Under the rules, the bill was ordered to a second reading.

At the hour of 3:50 o'clock p.m., Senator Petka presiding.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has accepted the Governor's specific recommendations for change, which are attached, to a bill of the following title, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL 2271
A bill for AN ACT concerning the regulation of professions.

I am further instructed to deliver to you the objections of the Governor which are contained in the attached copy of his letter to the House of Representatives:

Adopted by the House, November 19, 2002.

ANTHONY D. ROSSI, Clerk of the House

I move to accept the specific recommendations of the Governor as to House Bill 2271 in manner and form as follows:

AMENDMENT TO HOUSE BILL 2271
IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend House Bill 2271 on page 13, line 13, by replacing "The" with "Beginning January 1, 2004, the"; and
on page 13, line 15, by replacing "A" with "Beginning January 1, 2004, a".

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, 62706

GEORGE H. RYAN
GOVERNOR

August 21, 2002

To the Honorable Members of the
Illinois House of Representatives
92nd General Assembly

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in People ex Rel. Klinger v. Howlett, 50 Ill. 2d 242 (1972), Continental Illinois National Bank and Trust Co. v. Zagel, 78 Ill. 2d 387 (1979), People ex Rel. City of Canton v. Crouch, 79 Ill. 2d 356 (1980), and County of Kane v. Carlson, 116 Ill. 2d 186 (1987), that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return House Bill 2271 entitled "AN ACT concerning regulation of professions," with my specific recommendations for change.

House Bill 2271 would protect the public in a variety of ways by setting standards of qualifications, education, training and experience for individuals who would like to practice massage therapy in Illinois. This is a worthwhile goal and one that I fully support.

In order for the new regulations of this profession to be both effective and efficient, the same rules should apply throughout the state. The City of Chicago currently regulates massage establishments and massage services. A concern has been raised that given the effective date of this bill, and other references in the bill to when individuals must be licensed by the state Department of Professional Regulation, there could be a period of time when these individuals would not be licensed.

This bill would not prevent the City of Chicago from continuing to regulate massage establishments. In the case of the actual individuals, a single statewide standard is the right public policy, and in order to ensure that there are no gaps in regulatory coverage, I am making the following recommendations for change:

On page 13, line 13, by replacing "The" with "Beginning January 1, 2004, the"; and

On page 13, line 15, by replacing "A" with "Beginning January 1, 2004, a".

With these changes, House Bill 2271 will have my approval. I respectfully request your concurrence.

Sincerely,
s/GEORGE H. RYAN
Governor

A message from the House by
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has accepted the Governor's specific recommendations for change, which are attached, to a bill of the following title, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL 5610

A bill for AN ACT in relation to vehicles.

I am further instructed to deliver to you the objections of the Governor which are contained in the attached copy of his letter to the House of Representatives:

Adopted by the House, November 19, 2002.
ANTHONY D. ROSSI, Clerk of the House

I move to accept the specific recommendations of the Governor as to House Bill 5610 in manner and form as follows:

AMENDMENT TO HOUSE BILL 5610
IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend House Bill 5610 on page 1, line 6, by replacing "Section" with "Sections 11-208.2 and"; and
on page 1, by inserting between lines 12 and 13 the following:
"(625 ILCS 5/11-208.2) (from Ch. 95 1/2, par. 11-208.2)
Sec. 11-208.2. Limitation on home rule units.
The provisions of this Chapter of this Act limit the authority of home rule units to adopt local police regulations inconsistent herewith except pursuant to Sections 11-208, ~~and~~ 11-209, 11-1005.1, 11-1412.1, and 11-1412.2 of this Chapter of this Act.
(Source: P.A. 77-706.)"; and
on page 1, line 18, by inserting after the period the following:
"Nothing in this Section shall be deemed to limit or preempt the authority of any home rule or non-home rule unit of local government from regulating or prohibiting the use of electric personal assistive mobility devices."; and
on page 1, line 25, by inserting after the period the following:
"Nothing in this Section shall be deemed to limit or preempt the authority of any home rule or non-home rule unit of local government from regulating or prohibiting the use of electric personal assistive mobility devices."; and
on page 2, line 2, by inserting "device" after "mobility"; and
on page 2, line 3, by inserting after the period the following:
"Nothing in this Section shall be deemed to limit or preempt the authority of any home rule or non-home rule unit of local government from regulating or prohibiting the use of electric personal assistive mobility devices.".

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, 62706

GEORGE H. RYAN
GOVERNOR

August 16, 2002

To the Honorable Members of the

Illinois House of Representatives
92nd General Assembly

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in People ex Rel. Klinger v. Howlett, 50 Ill. 2d 242 (1972), Continental Illinois National Bank and Trust Co. v. Zagel, 78 Ill. 2d 387 (1979), People ex Rel. City of Canton v. Crouch, 79 Ill. 2d 356 (1980), and County of Kane v. Carlson, 116 Ill. 2d 186 (1987), that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return House Bill 5610 entitled "AN ACT in relation to vehicles," with my specific recommendation for change.

House Bill 5610 provides an exemption to the Illinois Vehicle Code, which currently prohibits driving on sidewalks, to allow the use of electric personal assistive mobility devices on sidewalks in Illinois. By removing state restrictions against the use of the electric personal assistive mobility devices on sidewalks, HB 5610 provides a framework in which these devices may be used on sidewalks in Illinois. However, since HB 5610 does not specifically defer to local regulation, HB 5610 effectively mandates that the use of electric personal assistive mobility devices be allowed throughout the state. This is inconsistent with current practice for the use of roller blades, bicycles, etc. and unnecessarily supercedes local control over sidewalk use. From the House and Senate floor debate it is clear that the legislature did not intend to preclude or pre-empt Home Rule powers, but merely intended to remove state restrictions against use of electric personal assistive mobility devices on sidewalks. It is essential that the State preserve local communities' right to permit, restrict, or prohibit the use of such devices as they deem appropriate in their respective communities.

For this reason, I hereby return House Bill 5610 with the following recommendation for change:

on page 1, line 6, by replacing "Section" with "Sections 11-208.2 and "; and

on page 1, by inserting between lines 12 and 13 the following:

"(625 ILCS 5/11-208.2)

Sec. 11-208.2. Limitation on home rule units. The provisions of this Chapter of this Act limit the authority of home rule units to adopt local police regulations inconsistent herewith except pursuant to Sections 11-208, ~~and~~ 11-209, 11-1005.1, 11-1412.1, and 11-1412.2 of this Chapter of this Act."; and

on page 1, line 18, by inserting after the period the following:

"Nothing in this Section shall be deemed to limit or preempt the authority of any home rule or non-home rule unit of local government from regulating or prohibiting the use of electric personal assistive mobility devices."; and

on page 1, line 25 by inserting after the period the following:

"Nothing in this Section shall be deemed to limit or preempt the authority of any home rule or non-home rule unit of local government from regulating or prohibiting the use of electric personal assistive mobility devices."; and

on page 2, line 2, by inserting "device" after "mobility"; and

on page 2, line 3, by inserting after the period the following:

"Nothing in this Section shall be deemed to limit or preempt the authority of any home rule or non-home rule unit of local government from regulating or prohibiting the use of electric personal assistive mobility devices.".

With these changes, House Bill 5610 will have my approval. I

respectfully request your concurrence.

Sincerely,
s/GEORGE H. RYAN
Governor

A message from the House by
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has accepted the Governor's specific recommendations for change, which are attached, to a bill of the following title, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL 2

A bill for AN ACT in relation to alternate fuels.

I am further instructed to deliver to you the objections of the Governor which are contained in the attached copy of his letter to the House of Representatives:

Adopted by the House, November 20, 2002.

ANTHONY D. ROSSI, Clerk of the House

I move to accept the specific recommendations of the Governor as to House Bill 2 in manner and form as follows:

AMENDMENT TO HOUSE BILL 2
IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend House Bill 2, on page 1, line 13, by replacing "electricity." with "electricity, excluding on-board electric generation."; and
on page 3, line 1, by replacing "Act; (2) determine" with "Act and (2) recommend"; and
on page 3, line 2, by replacing "grants and review" with "grants."; and
on page 3, by deleting lines 3 through 6; and
on page 3, by replacing line 19 with "research program shall remain in effect, subject to appropriation after calendar year ~~until December 31,~~"; and
on page 3, line 24, after "1997,", by inserting "and as long as funds are available,"; and
on page 3, by replacing lines 27 through 32 with the following:
"issued under the provisions of this Act. ~~The Alternate Fuels Advisory Board shall develop and recommend to the Agency rules that provide incentives or other measures to ensure that small fleet operators and owners participate in, and benefit from, the rebate program. Such rules shall define and identify small fleet operators and owners in the covered~~"; and
on page 4, by replacing lines 1 through 8 with the following:
"area and make provisions for the establishment of criteria to ensure that funds from the Alternate Fuels Fund specified in this Act are made readily available to these entities. ~~The Advisory Board shall, in the development of its rebate application review criteria, make provisions for preference to be given to applications proposing a partnership between the fleet operator or owner and a fueling service station to make alternate fuels available to the public.~~ An owner may"; and
on page 4, by replacing lines 26 and 27 with the following:
"conversion cost rebates applied for during or after calendar year years 1997~~, 1998, 1999, 2000, 2001, and 2002~~ shall"; and
on page 4, line 30, by replacing "2004," with "2002,"; and

on page 5, by replacing lines 13 and 14 with the following:
"or after calendar year years 1997, 1998, 1999, 2000, 2001, and 2002 shall be 80% of all approved cost differential"; and
on page 5, line 16, by replacing "2004," with "2002,"; and
on page 5, by replacing lines 31 and 32 with the following:
"applied for during or after calendar year years 1997, 1998, 1999, 2000, and 2001 and approved rebates shall be 80% of the cost"; and
on page 6, by replacing lines 1 through 32 with the following:
"year 2002 if funds are still available. Twenty-five percent of the amount appropriated under Section 40 to be used to fund the programs authorized by this Section during calendar year 1998 shall be designated to fund fuel cost differential rebates. If the total dollar amount of approved fuel cost differential rebate applications as of October 1, 1998 is less than the amount designated for that calendar year, the balance of designated funds shall be immediately available to fund any rebate authorized by this Section and approved in the calendar year. An applicant may include on an application submitted in 1997 all amounts spent within that calendar year on fuel cost differential, even if the expenditure occurred before the promulgation of the Agency rules.

Twenty-five percent of the amount appropriated under Section 40 to be used to fund the programs authorized by this Section during calendar year 1999 shall be designated to fund fuel cost differential rebates. If the total dollar amount of approved fuel cost differential rebate applications as of July 1, 1999 is less than the amount designated for that calendar year, the balance of designated funds shall be immediately available to fund any rebate authorized by this Section and approved in the calendar year.

Twenty-five percent of the amount appropriated under Section 40 to be used to fund programs authorized by this Section during calendar year 2000 shall be designated to fund fuel cost differential rebates. If the total dollar amount of approved fuel cost differential rebate applications as of July 1, 2000 is less than the amount designated for that calendar year, the balance of designated funds shall be immediately available to fund any rebate authorized by this Section and approved in the calendar year."; and
on page 7, line 24, by replacing "The" with "Subject to appropriation, the"; and
on page 7, line 32, by deleting "Under the grant program,"; and
on page 7, by deleting line 33; and
on page 8, by deleting lines 1 and 2; and
on page 8, line 4, by replacing "The" with "Subject to appropriation, the"; and
on page 8, by replacing line 13, with the following:
"(a) During fiscal years 1999, 2000, 2001, and 2002"; and
on page 9, lines 9, 12, 18, and 21, by replacing "and 2001" with "2001, and 2002" each time it appears; and
on page 9, line 32, by replacing "2001," with "2002,"; and
on page 10, lines 11, 16, and 20, by replacing "2002, 2003," with "2003" each time it appears; and
on page 11, by deleting lines 2 through 15; and
on page 11, line 16, by deleting "(d) Blank.".

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, 62706

GEORGE H. RYAN
GOVERNOR

August 28, 2002

To the Honorable Members of the

Illinois House of Representatives
92nd General Assembly

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in People ex Rel. Klinger v. Howlett, 50 Ill. 2d 242 (1972), Continental Illinois National Bank and Trust Co. v. Zagel, 78 Ill. 2d 387 (1979), People ex Rel. City of Canton v. Crouch, 79 Ill. 2d 356 (1980), and County of Kane v. Carlson, 116 Ill. 2d 186 (1987), that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return House Bill 2 entitled "AN ACT in relation to alternate fuels," with my specific recommendations for change.

House Bill 2 contains important provisions to further promote the use of clean alternative fuels in the State, especially in the Chicago area, fostering research, outreach and facility construction for the ethanol and alternative fuel industry. The existing programs for alternate fuel rebates and ethanol research, which will sunset in December of this year, are extended until 2004. In addition, House Bill 2 creates the Alternate Fuel Infrastructure Program and provides that the Department of Commerce and Community Affairs (DCCA) shall administer a Clean Fuel Education Program. House Bill 2 also creates an Alternate Fuel Infrastructure Advisory Board to provide private sector input into the State's efforts to expand the alternate fuel industry in Illinois.

House Bill 2 is the product of cooperative efforts of industry representatives, IEPA, DCCA and state legislators to provide state programming for alternative fuel development, research, facility and continuation of the Clean Fuels Fleet program. Each of these initiatives serves to foster vital components of the alternative fuel industry in Illinois. The State can play a pivotal role in securing the expansion of alternative fuel production and use, bringing both economic and environmental benefits to the State of Illinois.

However, the language in House Bill 2, as passed by the General Assembly, creates significant fiscal and legal implications for the State of Illinois. House Bill 2 eliminates the existing funding structure for Fiscal Year 2002, exposing the State to possible litigation for user fees collected and expended during this period. In addition, House Bill 2 mandates that the state agencies continue operation of the existing rebate and education programs and establish new infrastructure and research programs without any identified funding source. House Bill 2 does provide the authority for agencies to accept funds from outside sources for these programs. However, the legislation restricts the distribution of these private contributions, with no consideration for the delegation of funds desired by the funding source. Finally, House Bill 2 establishes an essential advisory board to accommodate private sector involvement, but provides this "advisory" board with excessive levels of authority, allowing the independent board members to determine distribution of state funds with no oversight by state agencies or the General Assembly.

I urge the General Assembly to continue the State's efforts to support and expand the alternative fuel industry in Illinois. However, any time we create new programs and mandate the continuation of existing programs, it is essential that the State be fiscally responsible and, when possible, provide sufficient funding sources for the programs we stand behind.

For these reasons, I hereby return House Bill 2 with the following recommendations for change:

on page 1, line 13, by replacing "electricity.", with "electricity, excluding on-board electric generation."; and
on page 3, line 1, by replacing "Act; (2) determine" with "Act and (2) recommend"; and
on page 3, line 2, by replacing "grants and review" with "grants."; and
on page 3, by deleting lines 3 through 6; and
on page 3, by replacing line 19 with "research program shall remain in effect, subject to appropriation after calendar year ~~until December 31,~~'; and
on page 3, line 24, after "1997,", by inserting "and as long as funds are available,"; and
on page 3, by replacing lines 27 through 32 with the following:
"issued under the provisions of this Act. ~~The Alternate Fuels Advisory Board shall develop and recommend to the Agency rules that provide incentives or other measures to ensure that small fleet operators and owners participate in, and benefit from, the rebate program. Such rules shall define and identify small fleet operators and owners in the covered~~"; and
on page 4, by replacing lines 1 through 8 with the following:
"~~area and make provisions for the establishment of criteria to ensure that funds from the Alternate Fuels Fund specified in this Act are made readily available to these entities. The Advisory Board shall, in the development of its rebate application review criteria, make provisions for preference to be given to application proposing a partnership between the fleet operator or owner and a fueling service station to make alternate fuels available to the public.~~ An owner may; and
on page 4, by replacing lines 26 and 27 with the following:
"conversion cost rebates applied for during or after calendar year ~~years 1997, 1998, 1999, 2000, 2001, and 2002~~ shall"; and
on page 4, line 30, by replacing "2004," with "2002,"; and
on page 5, by replacing lines 13 and 14 with the following:
"or after calendar year ~~years 1997, 1998, 1999, 2000, 2001, and~~ 2002 shall be 80% of all approved cost differential"; and
on page 5, line 16, by replacing "2004," with "2002,"; and
on page 5, by replacing lines 31 and 32 with the following:
"applied for during or after calendar year ~~years 1997, 1998, 1999, 2000, and 2001~~ and approved rebates shall be 80% of the cost"; and
on page 6, by replacing lines 1 through 32 with the following:
"year 2002 if funds are still available. ~~Twenty five percent of the amount appropriated under Section 40 to be used to fund the programs authorized by this Section during calendar year 1998 shall be designated to fund fuel cost differential rebates. If the total dollar amount of approved fuel cost differential rebate applications as of October 1, 1998 is less than the amount designated for that calendar year, the balance of designated funds shall be immediately available to fund any rebate authorized by this Section and approved in the calendar year. An applicant may include on an application submitted in 1997 all amounts spent within that calendar year on fuel cost differential, even if the expenditure occurred before the promulgation of the Agency rules. Twenty five percent of the amount appropriated under Section 40 to be used to fund the programs authorized by this Section during calendar year 1999 shall be designated to fund fuel cost differential rebates. If the total dollar amount of approved fuel cost differential rebate applications as of July 1, 1999 is less than the amount designated for that calendar year, the balance of designated~~

~~funds---shall--be--immediately--available--to--fund--any--rebate authorized-by-this-Section-and-approved-in--the--calendar--year.- Twenty-five--percent-of-the-amount-appropriated-under-Section-40 to-be-used-to-fund-programs-authorized-by--this--Section--during calendar--year--2000--shall--be--designated--to--fund--fuel-cost differential-rebates.-If-the-total--dollar--amount--of--approved fuel-cost-differential-rebate-applications-as-of-July-1,-2000-is less--than--the--amount--designated--for-that-calendar-year,-the balance-of-designated-funds-shall-be--immediately--available--to fund--any--rebate-authorized-by-this-Section-and-approved-in-the calendar-year.~~"; and

on page 7, line 24 by replacing "The" with "Subject to appropriation, the"; and

on page 7, line 32, by deleting "Under the grant program,"; and

on page 7, by deleting line 33; and

on page 8, by deleting line 1 and 2; and

on page 8, line 4, by replacing "The" with "Subject to appropriate, the"; and

on page 8, by replacing line 13, with the following:

"(a) During fiscal years 1999, 2000, 2001, and 2002"; and

on page 9, lines 9, 12, 18, and 21 by replacing "and 2001" with "2001, and 2002" each time it appears; and

on page 9, line 32 by replacing "2001," with "2002,"; and

on page 10, lines 11, 16, and 20, by replacing "2002, 2003," with "2003" each time it appears; and

on page 11, by deleting lines 2 through 15; and

on page 11, line 16, by deleting "(d) Blank.".

With these changes, House Bill 2 will have my approval. I respectfully request your concurrence.

A message from the House by

Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has accepted the Governor's specific recommendations for change, which are attached, to a bill of the following title, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL 4074

A bill for AN ACT in relation to criminal law.

I am further instructed to deliver to you the objections of the Governor which are contained in the attached copy of his letter to the House of Representatives:

Adopted by the House, November 20, 2002.

ANTHONY D. ROSSI, Clerk of the House

I move to accept the specific recommendations of the Governor as to House Bill 4074 in manner and form as follows:

AMENDMENT TO HOUSE BILL 4074

IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend House Bill 4074 as follows:

on page 2, line 34, after the period, by inserting the following:

"A retired law enforcement officer may be certified by the Illinois State Police only to (i) prepare petitions for the authority to intercept private oral communications in accordance with the provisions of this Act; (ii) intercept and supervise the interception of private oral communications; (iii) handle, safeguard, and use evidence derived from such private oral communications; and (iv)

operate and maintain equipment used to intercept private oral communications.".

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, 62706

GEORGE H. RYAN
GOVERNOR

August 2, 2002

To the Honorable Members of the
Illinois House of Representatives
92nd General Assembly

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in People ex Rel. Klinger v. Howlett, 50 Ill. 2d 242 (1972), Continental Illinois National Bank and Trust Co. v. Zagel, 78 Ill. 2d 387 (1979), People ex Rel. City of Canton v. Crouch, 79 Ill. 2d 356 (1980), and County of Kane v. Carlson, 116 Ill.2d 186 (1987), that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return House Bill 4074 entitled, "AN ACT in relation to criminal law," with my specific recommendation for change.

House Bill 4074 amends the Code of Criminal Procedure of 1963 to allow retired police officers to become trained as electronic criminal surveillance officers in order to conduct court authorized non-consensual electronic criminal surveillance. The bill defines retired police officer and prohibits the retired officer from carrying a firearm at any time while carrying out their electronic surveillance duties.

Under current law only specially trained and certified law enforcement officers on active duty can carry out court authorized non-consensual electronic criminal surveillance. The current Electronic Criminal Surveillance law requires the State Police to train and certify the officers. There are three levels of training and certification:

(1) Electronic Criminal Surveillance Officer I (ECSO I) is certified to (i) prepare petitions for the authority to intercept private oral communications in accordance with the provisions of electronic surveillance law; (ii) intercept and supervise the interception of private oral communications; (iii) handle, safeguard, and use evidence derived from such private oral communications; and (iv) operate and maintain equipment used to intercept private oral communications.

(2) Electronic Criminal Surveillance Officer II is certified to carry out ECSO I duties, plus to install, maintain and remove non-consensual electronic criminal surveillance devices when court authorized non-consensual entry of property is not required.

(3) Electronic Criminal Surveillance Officer III is certified to carry out ECSO I and ECSO II duties, plus when authorized by the courts to enter property to install, maintain or remove non-consensual electronic criminal surveillance devices. Currently only law enforcement officers assigned to a dedicated electronic criminal surveillance unit may apply for ECSO III training and certification.

It is my understanding that during the legislative process, House Bill 4074 was described as allowing retired police officers, who are properly trained and certified by the State Police, to carry out

Electronic Criminal Surveillance Officer I duties of monitoring intercepted communications. I fully support that purpose, which will free up police officers to carry out other more pressing duties. However, nothing in House Bill 4074 limits retired officers at ECSO I duties or allows the State Police to decline to train retired police officers at ECSO II and ECSO III levels. I believe it is important that this legislation be so limited to avoid any confusion. Also, I do not believe that retired police officers, who by the terms of this bill are prohibited from carrying a firearm, should conduct the ECSO II and ECSO III duties. There are not a large number of non-consensual electronic surveillance operations carried out each year, so there is not any pressing need for anyone other than active duty police officers to carry out ECSO II and ECSO III duties. The intent of House Bill 4074 can be fully satisfied by limiting retired officers to currently defined Electronic Criminal Surveillance Officer I duties.

For these reasons, I hereby return House Bill 4074 with the following specific recommendation for change.

on page 2, line 34, after the period, by inserting the following: "A retired law enforcement officer may be certified by the Illinois State Police only to (i) prepare petitions for the authority to intercept private oral communications in accordance with the provisions of this Act; (ii) intercept and supervise the interception of private oral communications; (iii) handle, safeguard, and use evidence derived from such private oral communications; and (iv) operate and maintain equipment used to intercept private oral communications.".

With this change, House Bill 4074 will have my approval. I respectfully request your concurrence.

Sincerely,
s/GEORGE H. RYAN
Governor

A message from the House by
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has accepted the Governor's specific recommendations for change, which are attached, to a bill of the following title, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL 4179

A bill for AN ACT in relation to criminal law.

I am further instructed to deliver to you the objections of the Governor which are contained in the attached copy of his letter to the House of Representatives:

Adopted by the House, November 20, 2002.
ANTHONY D. ROSSI, Clerk of the House

I move to accept the specific recommendations of the Governor as to House Bill 4179 in manner and form as follows:

AMENDMENT TO HOUSE BILL 4179
IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend House Bill 4179 as follows:

on page 3, lines 10 and 14, by replacing "~~official~~" each time it appears with "official"; and

on page 4, line 20, by replacing "authorized" with "official"; and

on page 8, line 13, by inserting "engaged" after "department"; and

on page 8, line 14, by replacing "authorized" with "official"; and
on page 9, by inserting after line 12 the following:

"Section 99. Effective date. This Act takes effect on January 1, 2003.".

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, 62706

GEORGE H. RYAN
GOVERNOR

August 21, 2002

To the Honorable Members of the
Illinois House of Representatives
92nd General Assembly

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in People ex Rel. Klinger v. Howlett, 50 Ill. 2d 242 (1972), Continental Illinois National Bank and Trust Co. v. Zagel, 78 Ill. 2d 387 (1979), People ex Rel. City of Canton v. Crouch, 79 Ill. 2d 356 (1980), and County of Kane v. Carlson, 116 Ill. 2d 186 (1987), that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return House Bill 4179, entitled "AN ACT in relation to criminal law," with my specific recommendations for change.

House Bill 4179 amends the Criminal Code to amend the offense of aggravated assault concerning emergency medical technicians (EMTs) and other medical assistance personnel. It deletes the requirements that the EMT must be an employee of a municipality or other governmental unit. This legislation also ensures that employees of a police or sheriff's department engaged in the performance of authorized duties are protected under the aggravated assault and aggravated battery laws. This legislation also increases the penalty for aggravated assault of an emergency medical technician when a firearm is used from a Class A misdemeanor (up to 1 year in county jail and/or fine up to $2,500) to a Class 4 felony (1 to 3 years in prison and/or fine up to $25,000).

Emergency medical technicians, as well as police officers and firefighters, have a difficult job. The same holds true for employees of a police department. Any protection that these professions can receive from crimes committed against them is important because we depend on these public safety professions to protect us. The least we can do is protect them and penalize those who prevent the performance of their duties. I do not disagree with the purpose of such legislation to equalize such offenses as aggravated assault or aggravated battery when the victim is an EMT or employee of a law enforcement agency. However, there are some inconsistencies in language of this legislation that need to be corrected. Both of the aggravated assault and aggravated battery statutes have sections that reference "official duties", as opposed to "authorized" which is the language being used in this legislation. Furthermore, there were some inadvertent errors that must be corrected. To ensure consistency, clarify other provisions, and prevent court challenges, I recommend the changes set forth below.

In addition, because of the importance of this legislation, I request that the effective date of this legislation be amended as to have the original effective date as this legislation had when it came to my desk. Any amendatory veto action would move the effective date to June 1, 2003, unless otherwise stated. Thus, I also recommend that

this legislation state the effective date as January 1, 2003.

For these reasons, I return House Bill 4179 with the following recommendations for change:

On page 3, lines 10 and 14, by replacing "~~official~~" each time it appears with "official";

On page 4, line 20, by replacing "authorized" with "official"; and

On page 8, line 13, by inserting "engaged" after "department"; and

On page 8, line 14, by replacing "authorized" with "official"; and

On page 9, by inserting after line 12 the following:

"Section 99. Effective date. This Act takes effect January 1, 2003.".

With these specific recommendations for change, House Bill 4179 will have my approval. I respectfully request your concurrence.

Sincerely,
s/GEORGE H. RYAN
Governor

A message from the House by
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, the Governor's specific recommendations for change notwithstanding, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL 2058

A bill for AN ACT in relation to terrorism.

I am further instructed to deliver to you the objections of the Governor which are contained in the attached copy of his letter to the House of Representatives:

Passed the House, November 20, 2002, by a three-fifths vote.

ANTHONY D. ROSSI, Clerk of the House

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, 62706

GEORGE H. RYAN
GOVERNOR

August 23, 2002

To the Honorable Members of the
Illinois House of Representatives
92nd General Assembly

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in People ex Rel. Klinger v. Howlett, 50 Ill. 2d 242 (1972), Continental Illinois National Bank and Trust Co. v. Zagel, 78 Ill. 2d 387 (1979), People ex Rel. City of Canton v. Crouch, 79 Ill. 2d 356 (1980), and County of Kane v. Carlson, 116 Ill. 2d 186 (1987), that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return House Bill 2058, entitled "AN ACT in relation to terrorism", with my specific recommendations for change.

House Bill 2058 amends the Criminal Code of 1961, the

Solicitation for Charity Act, the Firearm Owners Identification Card Act, the Code of Criminal Procedure of 1963, the Boarding Aircraft with Weapon Act, the Statewide Grand Jury Act, the Unified Code of Corrections, the Charitable Trust Act and other Acts with respect to investigating, prosecuting and punishing acts of terrorism. Specifically, the bill amends the Criminal Code of 1961 to allow the death penalty to be considered for a first-degree murder committed as a result of or in connection with a terrorism offense.

House Bill 2058 is the second terrorism bill to pass the General Assembly. On February 8th of this year, I amendatorily vetoed the first terrorism bill (House Bill 2299) due to, among others, concerns surrounding the over-expansive eavesdropping & wiretapping provisions, the expansion of our death eligibility factors, the need for additional due process protections before seizing and freezing of assets of charitable organizations and persons, and other technical flaws. The proposed amendments were important to protecting the constitutional rights of our citizens from some of the overly broad provisions of this legislation. I am pleased to see that the General Assembly has passed a much-improved anti-terrorism bill by including all but one of my suggested changes in House Bill 2058. However, the one suggested amendatory veto change that the General Assembly did not incorporate into House Bill 2058 is removing the addition of an unnecessary death eligibility factor for a first-degree murder committed as part of a terrorist offense. Our current death penalty statute has numerous provisions that cover just about every conceivable murder circumstance that would be committed by a terrorist. Illinois' legislative response to the tragic events of September 11th should not compromise our state government's integrity by succumbing to the urge to enact largely symbolic legislative changes.

House Bill 2058 passed the General Assembly on May 29, 2002. This was a month and a half after my Commission on Capital Punishment delivered its report with 85 proposed reforms to the death penalty system and more than two weeks after I introduced reform legislation that would codify many of the Commission's recommendations. The General Assembly, however, did not address the important issue of comprehensive death penalty reform during the spring legislative session, but rather sent me yet another bill expanding the death penalty. This occurred despite what I believe is a growing consensus to limit eligibility factors in some fashion. The General Assembly has convened committees to look into the issue of death penalty reform, which have been meeting over the summer months. And while I applaud both the House and Senate for convening these committees to look into the issue of death penalty reform, I am troubled by the relative ease with which a death penalty expansion bill was able to pass before any real legislative attention had been given to carrying out much needed reforms. Given our State's capital punishment track record, there can be little doubt that reform should take precedence over expanding death penalty eligibility in what most believe to be a flawed system. Failure to do so can only serve to demonstrate that Illinois is more concerned with making a symbolic statement with an unnecessary death penalty provision than with ensuring that additional innocent persons do not end up on death row and executed at the hands of the state.

While it is true that the General Assembly previously passed the Capital Crimes Litigation Act to better fund defense and prosecution of capital cases and legislation requiring stricter controls over retaining evidence, this year I did not receive a single death penalty reform proposal. For the third time in barely over a year, I am receiving legislation aimed at expanding the death penalty

statute, despite my two previous vetoes of the prior attempts to expand the statute. Instead of sending me comprehensive death penalty reform legislation, I have received only death penalty expansion legislation. This, despite the fact that my Commission comprised of intelligent, insightful, experienced, passionate and well-rounded individuals has come up with 85 recommendations for change to our flawed capital punishment system. The Illinois State Bar Association, the Illinois State's Attorney?s Association, the Illinois Chiefs of Police, the Illinois Public Defender's Association and many others have gone on record as agreeing with the vast majority of the Commission's recommendations.

Since the reinstatement of the death penalty on June 27, 1977, the number of innocent persons exonerated from death row has outnumbered the number of those who have been executed. There may still be innocent persons on death row-sentenced to die by a badly flawed system. If that system is allowed to continue unchanged and unreformed, then there undoubtedly will be more innocent men and women who find themselves awaiting their death at the hands of the people of the State of Illinois for a crime that they did not commit.

Now is the time for reform of Illinois' death penalty system. To do anything otherwise is unjust, unfair and unprincipled.

Therefore, if the General Assembly wants to expand the death penalty with House Bill 2058, then justice demands that the General Assembly be prepared to adopt some needed reforms to make sure the death penalty is considered and imposed in a fair and just manner. To that end, I am proposing an amendatory veto of House Bill 2058 to include changes in the death penalty system that I believe will help keep Illinois' death penalty statutes constitutional, address technical flaws in the system and begin restoring public confidence in our system of justice. There are additional reforms the General Assembly must consider in November, but the reform proposals contained in this amendatory veto are both applicable and necessary to the death penalty provision in this bill.

For these reasons, I hereby return House Bill 2058 with the following recommendations for change:

on page 1, by inserting between lines 3 and 4 the following:

"Section 2. The Counties Code is amended by changing Section 3-4006 as follows:

(55 ILCS 5/3-4006) (from Ch. 34, par. 3-4006)

Sec. 3-4006. Duties of public defender. The Public Defender, as directed by the court, shall act as attorney, without fee, before any court within any county for all persons who are held in custody or who are charged with the commission of any criminal offense, and who the court finds are unable to employ counsel.

The Public Defender shall be the attorney, without fee, when so appointed by the court under Section 1-20 of the Juvenile Court Act or Section 1-5 of the Juvenile Court Act of 1987 or by any court under Section 5(b) of the Parental Notice of Abortion Act of 1983 for any party who the court finds is financially unable to employ counsel.

<u>The Public Defender may act as attorney, without fee and appointment by the court, for a person in custody during the person's interrogation regarding first degree murder for which the death penalty may be imposed, if the person has requested the advice of counsel and there is a reasonable belief that the person is indigent. Any further representation of the person by the Public Defender shall be pursuant to Section 109-1 of the Code of Criminal Procedure of 1963.</u>

Every court shall, with the consent of the defendant and where the court finds that the rights of the defendant would be prejudiced

by the appointment of the public defender, appoint counsel other than the public defender, except as otherwise provided in Section 113-3 of the "Code of Criminal Procedure of 1963". That counsel shall be compensated as is provided by law. He shall also, in the case of the conviction of any such person, prosecute any proceeding in review which in his judgment the interests of justice require. (Source: P.A. 86-962.)"; and

on page 8, by replacing lines 18 through 21 with the following:

"(b) Aggravating Factors. A defendant:

(i) who at the time of the commission of the offense has attained the age of 18 or more;

(ii) ~~and~~ who has been found guilty of first degree murder; and

(iii) whose guilt was not, in the determination of the court, based solely upon the uncorroborated testimony of one eyewitness, of one accomplice, or of one incarcerated informant;

may be sentenced to death if:";

and on page 11, by replacing lines 1 and 2 with the following:

"to prevent the murdered individual from testifying or participating in any criminal investigation or prosecution or giving material assistance to the"; and

on page 11, by replacing line 5 with the following:

"murder because the murdered individual was a witness or participated in"; and

on page 13, by replacing lines 23 through 27 with the following:

"For the purpose of this Section:

Torture" means the intentional and depraved infliction of extreme physical pain for a prolonged period of time prior to the victim's death.

"Depraved" means the defendant relished the infliction of extreme physical pain upon the victim evidencing debasement or perversion or that the defendant evidenced a sense of pleasure in the infliction of extreme physical pain.

"Participating in any criminal investigation or prosecution" is intended to include those appearing in the proceedings in any capacity, such as trial judges, prosecutors, defense attorneys, investigators, witnesses, or jurors.

(c) Consideration of accomplice or informant testimony and factors in aggravation and mitigation.

When the sentence of death is being sought by the State, the court shall consider, or shall instruct the jury to consider that the testimony of an accomplice or incarcerated informant who may provide evidence against a defendant for pay, immunity from punishment, or personal advantage must be examined and weighed with greater care than the testimony of an ordinary witness. Whether the accomplice or informant's testimony has been affected by interest or prejudice against the defendant must be determined. In making the determination, the jury must consider (i) whether the accomplice or incarcerated informant has received anything, including pay, immunity from prosecution, leniency in prosecution, or personal advantage, in exchange for testimony, (ii) any other case in which the accomplice or informant testified or offered statements against an individual but was not called, and whether the statements were admitted in the case, and whether the accomplice or informant received any deal, promise, inducement, or benefit in exchange for that testimony or statement, (iii) whether the accomplice or informant has ever changed his or her testimony, (iv) the criminal history of the accomplice or informant, and (v) any other evidence relevant to the credibility of the accomplice or informant.

The court shall also consider, or shall also instruct the jury to consider, any aggravating and any mitigating factors which are

relevant to the imposition of the death penalty. Before the jury makes a determination with respect to the imposition of the death penalty, the court shall also instruct the jury of the applicable alternative sentences under Chapter V of the Unified Code of Corrections that the court may impose for first degree murder if a jury determination precludes the death sentence. Aggravating"; and
on page 14, line 10, by replacing the period with ";.-
(6) the defendant's background includes a history of extreme emotional or physical abuse;
(7) the defendant suffers from a reduced mental capacity."; and
on page 15, line 4, by inserting after the period the following:
"The defendant shall be given the opportunity, personally or through counsel, to make a statement that is not subject to cross-examination. If the proceeding is before a jury, the defendant's statement shall be reduced to writing in advance and submitted to the court and the State, so that the court may rule upon any evidentiary objection with respect to admissibility of the statement."; and
on page 15, by replacing lines 22 through 29 with the following:
"determines unanimously, after weighing the factors in aggravation and mitigation, that death is the appropriate sentence and the court concurs with the jury determination ~~that there are no mitigating factors sufficient to preclude the imposition of the death sentence~~, the court shall sentence the defendant to death. If the court does not concur with the jury determination that death is the appropriate sentence, the court shall set forth reasons in writing and shall then sentence the defendant to a term of natural life imprisonment under Chapter V of the Unified Code of Corrections.
If ~~Unless~~ the jury determines unanimously, after weighing the factors in aggravation and mitigation, that death is not the appropriate sentence, ~~finds that there are no mitigating factors sufficient to preclude the imposition of the death sentence~~ the court shall sentence the defendant to a term of imprisonment under Chapter V of the Unified Code of Corrections."; and
on page 16, by replacing lines 5 through 13 with the following:
"subsection (c). If the Court determines, after weighing the factors in aggravation and mitigation, that death is the appropriate sentence that there are no mitigating factors sufficient to preclude the imposition of the death sentence, the Court shall sentence the defendant to death.
If ~~Unless~~ the court finds that ~~there are no mitigating factors sufficient to preclude the imposition of the sentence of~~ death is not the appropriate sentence, the court shall sentence the defendant to a term of imprisonment under Chapter V of the Unified Code of Corrections."; and
on page 16, line 17, by inserting after the period the following:
"Upon the request of the defendant, the Supreme Court must determine whether the sentence was imposed due to some arbitrary factor; whether an independent weighing of the aggravating and mitigating circumstances indicate death was the proper sentence; and whether the sentence of death was excessive or disproportionate to the penalty imposed in similar cases. The Supreme Court may order the collection of data and information to support the review required by this subsection (i)."; and
on page 20, line 5, by replacing "and" with "~~and~~"; and
on page 22, line 3, by replacing the period with the following:
"; and
(k) Recording the interrogation or statement of a person in custody for first degree murder or a witness in a first degree murder case, when the person in custody or witness knows the

interrogation is being conducted by a law enforcement officer or prosecutor. For the purposes of this Section, "interrogation of a person in custody" means any interrogation during which the person being interrogated is not free to leave and the person is being asked questions relevant to the first degree murder investigation."; and

on page 41, by replacing line 28 with the following:

"108B-11, 108B-12, 108B-14, 114-11, 114-13, 116-3, 122-1, and 122-2.1 and by adding Sections 108B-7.5, 113-7, 114-15, 114-16, 115-16.1, and 115-21 as"; and

on page 68, by inserting between lines 1 and 2 the following:

"(725 ILCS 5/113-7 new)

Sec. 113-7. Notice of intention to seek or decline the death penalty. The State's Attorney or Attorney General shall provide notice of the State's intention to seek or decline the death penalty by filing a Notice of Intent to Seek or Decline the Death Penalty as soon as practicable. In no event shall the filing of the notice be later than 120 days after arraignment, unless, for good cause shown, the court directs otherwise. A notice of intent to seek the death penalty shall also include all of the statutory aggravating factors enumerated in subsection (b) of Section 9-1 of the Criminal Code of 1961 which the State intends to introduce during the death penalty sentencing hearing.

(725 ILCS 5/114-11) (from Ch. 38, par. 114-11)

Sec. 114-11. Motion to Suppress Confession.

(a) Prior to the trial of any criminal case a defendant may move to suppress as evidence any confession given by him on the ground that it was not voluntary.

(b) The motion shall be in writing and state facts showing wherein the confession is involuntary.

(c) If the allegations of the motion state facts which, if true, show that the confession was not voluntarily made the court shall conduct a hearing into the merits of the motion.

(d) The burden of going forward with the evidence and the burden of proving that a confession was voluntary shall be on the State. Objection to the failure of the State to call all material witnesses on the issue of whether the confession was voluntary must be made in the trial court.

(e) The motion shall be made only before a court with jurisdiction to try the offense.

(f) The issue of the admissibility of the confession shall not be submitted to the jury. The circumstances surrounding the making of the confession may be submitted to the jury as bearing upon the credibility or the weight to be given to the confession.

(g) The motion shall be made before trial unless opportunity therefor did not exist or the defendant was not aware of the grounds for the motion. If the motion is made during trial, and the court determines that the motion is not untimely, and the court conducts a hearing on the merits and enters an order suppressing the confession, the court shall terminate the trial with respect to every defendant who was a party to the hearing and who was within the scope of the order of suppression, without further proceedings, unless the State files a written notice that there will be no interlocutory appeal from such order of suppression. In the event of such termination, the court shall proceed with the trial of other defendants not thus affected. Such termination of trial shall be proper and shall not bar subsequent prosecution of the identical charges and defendants; however, if after such termination the State fails to prosecute the interlocutory appeal until a determination of the merits of the appeal by the reviewing court, the termination shall be improper

within the meaning of subparagraph (a) (3) of Section 3--4 of the "Criminal Code of 1961", approved July 28, 1961, as amended, and subsequent prosecution of such defendants upon such charges shall be barred.

(h) In capital cases, the court may also conduct a hearing pursuant to Section 115-21 on the admissibility of the statement made by the defendant where the statement has not been recorded by electronic video or audio, regardless of whether the defense requests such a hearing. (Source: P.A. 76-1096.)

(725 ILCS 5/114-13) (from Ch. 38, par. 114-13)

Sec. 114-13. Discovery in criminal cases.

(a) Discovery procedures in criminal cases shall be in accordance with Supreme Court Rules.

(b) Discovery deposition procedures applicable in cases for which the death penalty may be imposed shall be in accordance with Supreme Court Rules and this subsection (b), unless the State has given notice of its intention not to seek the death penalty.

(1) The intent of this subsection is to (i) ensure that capital defendants receive fair and impartial trials and sentencing hearings within the courts of this State and (ii) minimize the occurrence of error to the maximum extent feasible by identifying and correcting with due promptness any error that may occur.

(2) A party may, with leave of court upon a showing of good cause, take the discovery deposition upon oral questions of any person disclosed as a witness as provided by law or Supreme Court Rule. In determining whether to allow a deposition, the court should consider (i) the consequences to the party if the deposition is not allowed, (ii) the complexities of the issues involved, (iii) the complexity of the testimony of the witness, and (iv) the other opportunities available to the party to discover the information sought by deposition. Under no circumstances, however, may the defendant be deposed.

(3) The taking of depositions shall be in accordance with rules providing for the taking of depositions in civil actions, and the order for the taking of a deposition may provide that any designated books, papers, documents, or tangible objects, not privileged, be produced at the same time and place.

(4) A defendant shall have no right to be physically present at a discovery deposition. If there is any concern regarding witness safety, the court may require that the deposition be held in a place or manner that will ensure the security of the witness. The court may also issue protective orders to restrict the use and disclosure of information provided by a witness.

(5) Absent good cause shown to the court, depositions shall be completed within 90 days after the disclosure of witnesses. The parties shall have the right to compel depositions under this subsection by subpoena. No witness may be deposed more than once, except by leave of the court upon a showing of good cause.

(6) If the defendant is indigent, the costs of taking depositions shall be paid by the county where the criminal charge is initiated with reimbursement to the county from the Capital Litigation Trust Fund. If the defendant is not indigent, the costs shall be allocated as in civil actions.

(Source: Laws 1963, p. 2836.)

(725 ILCS 5/114-15 new)

Sec. 114-15. Motion for genetic marker groupings comparison analysis.

(a) A defendant may make a motion for a court order before trial for comparison analysis by the Department of State Police with those genetic marker groupings maintained under subsection (f) of Section 5-4-3 of the Unified Code of Corrections if the defendant meets all of the following requirements:

(1) The defendant is charged with any offense.

(2) The defendant seeks for the Department of State Police to identify genetic marker groupings from evidence collected by criminal justice agencies pursuant to the alleged offense.

(3) The defendant seeks comparison analysis of genetic marker groupings of the evidence under subdivision (2) to those of the defendant, to those of other forensic evidence, and to those maintained under subsection (f) of Section 5-4-3 of the Unified Code of Corrections.

(4) Genetic marker grouping analysis must be performed by a laboratory compliant with the quality assurance standards required by the Department of State Police for genetic marker grouping analysis comparisons.

(5) Reasonable notice of the motion shall be served upon the State.

(b) The Department of State Police may promulgate rules for the types of comparisons performed and the quality assurance standards required for submission of genetic marker groupings. The provisions of the Administrative Review Law shall apply to all actions taken under the rules so promulgated.

(725 ILCS 5/114-16 new)

Sec. 114-16. Motion to preclude death penalty based upon mental retardation.

(a) A defendant charged with first degree murder may make a motion prior to trial to preclude the imposition of the death penalty based upon the mental retardation of the defendant. The motion shall be in writing and shall state facts to demonstrate the mental retardation of the defendant. As used in this Section, "mental retardation" means:

(1) having significantly subaverage general intellectual functioning as evidenced by a functional intelligence quotient (I.Q.) of 70 or below; and

(2) having deficits in adaptive behavior. The mental retardation must have been manifested during the developmental period, or by 18 years of age.

(b) Notwithstanding any provision of law to the contrary, a defendant with mental retardation at the time of committing first degree murder shall not be sentenced to death.

(c) The burden of going forward with the evidence and the burden of proving the defendant's mental retardation by a preponderance of the evidence is upon the defendant. The determination of whether the defendant was mentally retarded at the time of the offense of first degree murder shall be made by the court after a hearing.

(d) If the issue of mental retardation is raised prior to trial and the court determines that the defendant is not a person with mental retardation, the defendant shall be entitled to offer evidence to the trier of fact of diminished intellectual capacity as a mitigating circumstance pursuant to clause (c)(7) of Section 9-1 of the Criminal Code of 1961.

(e) The determination by the trier of fact on the defendant's motion shall not be appealable by interlocutory appeal, but may be a basis of appeal by either the State or defendant following the sentencing stage of the trial.

(725 ILCS 5/115-16.1 new)

Sec. 115-16.1. Witness qualification in first degree murder

trial.

(a) In a prosecution for first degree murder where the State has given notice of its intention to seek the death penalty, the prosecution must promptly notify the court and the defendant's attorney of the intention to introduce testimony at trial from a person who is in custody or who was in custody at the time of the factual matters to which the person will testify. The notice to the defendant's attorney must include the identification, criminal history, and background of the witness. The prosecution must also promptly notify the defendant's attorney of any discussion, inducement, benefit, or agreement between that witness and a law enforcement agency, officer, or prosecutor for that witness.

(b) After notice has been given to the court pursuant to subsection (a), the court must prior to trial conduct an evidentiary hearing to determine the reliability and admissibility of the testimony of the witness. The prosecution has the burden of proving by a preponderance of the evidence the reliability of the testimony of the witness. In making its determination, the court may consider:

(1) the specific statements or facts to which the witness will testify;

(2) the time, place, and other circumstances regarding the statements or facts to which the witness will testify;

(3) any discussion, inducement, benefit, or agreement between the witness and a law enforcement agency or officer for that witness;

(4) the criminal history of the witness;

(5) whether the witness has ever recanted his or her testimony;

(6) other criminal cases in which the witness has testified;

(7) the presence or absence of any relationship between the accused and the witness; and

(8) any other evidence relevant to the credibility of the witness.

(725 ILCS 5/115-21 new)

Sec. 115-21. Evidence of statement in capital case.

(a)The General Assembly believes that justice and fairness are best served if the custodial interrogation and any statement of the defendant that may result from the interrogation in a capital case are recorded by means of electronic video and audio. The General Assembly finds that the video and audio recording of the interrogation and statement produce some of the best evidence with respect to the voluntariness and reliability of the statement and compliance with the constitutional rights of the defendant. The General Assembly understands that to implement such recording practices will require time, training, and funding. Therefore, the General Assembly believes that law enforcement officers, to the extent possible, should record any interrogations and statements of the suspect, defendant, or significant witness in capital cases in video and audio format. However, the General Assembly also recognizes that such video and audio recording may not always be available or practical under the circumstances and resources of a particular case. Further, an interrogation or statement that is not recorded by video or audio may be just as reliable and voluntary as one that is so recorded. Therefore, the purpose of this Section is not to mandate video and audio recording of interrogations and statements in first degree murder cases and compel the exclusion of unrecorded statements or interrogations, but rather to guarantee an admissibility hearing before the court for statements made

without a video or audio recording. The State's Attorney for each county and the Attorney General shall each report separately to the General Assembly by August 1, 2003 as to the implementation of these recording procedures in their respective jurisdictions.

(b) When a statement of the defendant made during a custodial interrogation without an electronic video and audio recording of the interrogation and statement is to be offered as evidence at trial for first degree murder when the State has given notice of its intention to seek the death penalty, the court must conduct a hearing on the admissibility of the statement regardless of whether an admissibility objection has been made. In making a determination regarding admissibility of the statement, the court must review the facts with respect to the voluntariness of the statement, whether the defendant was properly advised of law. The hearing required by this Section may be combined with the hearing on the defendant's motion to suppress his or her confession pursuant to Section 114-11 of this Code.

(c) For the purposes of this Section, "custodial interrogation" means any interrogation during which the person being interrogated is not free to leave and the person is being asked questions relevant to the first degree murder investigation.

(725 ILCS 5/116-3)

Sec. 116-3. Motion for fingerprint or forensic testing not available at trial regarding actual innocence.

(a) A defendant may make a motion before the trial court that entered the judgment of conviction in his or her case for the performance of fingerprint or forensic DNA testing, including comparison analysis of genetic marker groupings of the evidence collected by criminal justice agencies pursuant to the alleged offense, to those of the defendant, to those of other forensic evidence, and to those maintained under subsection (f) of Section 5-4-3 of the Unified Code of Corrections, on evidence that was secured in relation to the trial which resulted in his or her conviction, but which was not subject to the testing which is now requested because the technology for the testing was not available at the time of trial. Reasonable notice of the motion shall be served upon the State.

(b) The defendant must present a prima facie case that:

(1) identity was the issue in the trial which resulted in his or her conviction; and

(2) the evidence to be tested has been subject to a chain of custody sufficient to establish that it has not been substituted, tampered with, replaced, or altered in any material aspect.

(c) The trial court shall allow the testing under reasonable conditions designed to protect the State's interests in the integrity of the evidence and the testing process upon a determination that:

(1) the result of the testing has the scientific potential to produce new, noncumulative evidence materially relevant to the defendant's assertion of actual innocence that significantly advances the defendant's claim of innocence;

(2) the testing requested employs a scientific method generally accepted within the relevant scientific community.

(Source: P.A. 90-141, eff. 1-1-98.)

(725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

Sec. 122-1. Petition in the trial court.

(a) Any person imprisoned in the penitentiary may institute a proceeding under this Article if the person who asserts that:

1) in the proceedings which resulted in his or her conviction there was a substantial denial of his or her rights under the Constitution of the United States or of the State of Illinois or both; or

(2) the death penalty was imposed and there is newly discovered evidence not available to the person at the time of the proceeding that resulted in his or her conviction that establishes the person's innocence.

(a-5) A proceeding under paragraph (2) of subsection (a) may be commenced at any time after the person's conviction notwithstanding any other provisions of ~~may--institute--a--proceeding--under~~ this Article. In such a proceeding regarding actual innocence, if the court determines the petition is frivolous or is patently without merit, it shall dismiss the petition in a written order, specifying the findings of fact and conclusions of law it made in reaching its decision. Such order of dismissal is a final judgment and shall be served upon the petitioner by certified mail within 10 days of its entry.

(b) The proceeding shall be commenced by filing with the clerk of the court in which the conviction took place a petition (together with a copy thereof) verified by affidavit. Petitioner shall also serve another copy upon the State's Attorney by any of the methods provided in Rule 7 of the Supreme Court. The clerk shall docket the petition for consideration by the court pursuant to Section 122-2.1 upon his or her receipt thereof and bring the same promptly to the attention of the court.

(c) Except as otherwise provided in subsection (a-5), if the petitioner is under sentence of death, no proceedings under this Article shall be commenced more than 6 months after the issuance of the mandate by the Supreme Court following affirmance of the defendant's direct appeal of the trial court verdict. In all other cases, no proceedings under this Article shall be commenced more than 6 months after the denial of a petition for leave to appeal or the date for filing such a petition if none is filed or more than 45 days after the defendant files his or her brief in the appeal of the sentence before the Illinois Supreme Court (or more than 45 days after the deadline for the filing of the defendant's brief with the Illinois Supreme Court if no brief is filed) or 3 years from the date of conviction, whichever is sooner, unless the petitioner alleges facts showing that the delay was not due to his or her culpable negligence.

(d) A person seeking relief by filing a petition under this Section must specify in the petition or its heading that it is filed under this Section. A trial court that has received a petition complaining of a conviction or sentence that fails to specify in the petition or its heading that it is filed under this Section need not evaluate the petition to determine whether it could otherwise have stated some grounds for relief under this Article.

(e) A proceeding under this Article may not be commenced on behalf of a defendant who has been sentenced to death without the written consent of the defendant, unless the defendant, because of a mental or physical condition, is incapable of asserting his or her own claim.

(Source: P.A. 89-284, eff. 1-1-96; 89-609, eff. 1-1-97; 89-684, eff. 6-1-97; 90-14, eff. 7-1-97.)

(725 ILCS 5/122-2.1) (from Ch. 38, par. 122-2.1)

Sec. 122-2.1. (a) Within 90 days after the filing and docketing of each petition, the court shall examine such petition and enter an order thereon pursuant to this Section.

(1) If the petitioner is under sentence of death and is without counsel and alleges that he is without means to procure counsel, he shall state whether or not he wishes counsel to be appointed to represent him. If appointment of counsel is so requested, the court shall appoint counsel if satisfied that the petitioner has no means to procure counsel.

(2) If the petitioner is sentenced to imprisonment and the court determines the petition is frivolous or is patently without merit, it shall dismiss the petition in a written order, specifying the findings of fact and conclusions of law it made in reaching its decision. Such order of dismissal is a final judgment and shall be served upon the petitioner by certified mail within 10 days of its entry.

(b) If the petition is not dismissed pursuant to this Section, the court shall order the petition to be docketed for further consideration in accordance with Sections 122-4 through 122-6. If the petitioner is under sentence of death, the court shall order the petition to be docketed for further consideration and hearing within one year of the filing of the petition.

(c) In considering a petition pursuant to this Section, the court may examine the court file of the proceeding in which the petitioner was convicted, any action taken by an appellate court in such proceeding and any transcripts of such proceeding. (Source: P.A. 86-655; 87-904.)

Section 20.5. The Capital Crimes Litigation Act is amended by changing Sections 10 and 19 as follows:

25 ILCS 124/10)

(Section scheduled to be repealed on July 1, 2004)

Sec. 10. Court appointed trial counsel; compensation and expenses.

(a) This Section applies only to compensation and expenses of trial counsel appointed by the court as set forth in Section 5, other than public defenders, for the period after arraignment and so long as the State's Attorney has not, at any time, filed a certificate indicating he or she will not seek the death penalty or stated on the record in open court that the death penalty will not be sought.

(b)Appointed trial counsel shall be compensated upon presentment and certification by the circuit court of a claim for services detailing the date, activity, and time duration for which compensation is sought. Compensation for appointed trial counsel may be paid at a reasonable rate not to exceed $125 per hour.

Beginning in 2001, every January 20, the statutory rate prescribed in this subsection shall be automatically increased or decreased, as applicable, by a percentage equal to the percentage change in the consumer price index-u during the preceding 12- month calendar year. "Consumer price index-u" means the index published by the Bureau of Labor Statistics of the United States Department of Labor that measures the average change in prices of goods and services purchased by all urban consumers, United States city average, all items, 1982-84=100. The new rate resulting from each annual adjustment shall be determined by the State Treasurer and made available to the chief judge of each judicial circuit. Payment in excess of the limitations stated in this subsection (b) may be made if the trial court certifies that such payment is necessary to provide fair compensation for representation based upon customary charges in the relevant legal market for attorneys of similar skill, background, and experience. A trial court may entertain the filing of this verified statement before the termination of the cause and may order the provisional payment of sums during the pendency of the

cause.

(c) Appointed trial counsel may also petition the court for certification of expenses for reasonable and necessary capital litigation expenses including, but not limited to, investigatory and other assistance, expert, forensic, and other witnesses, and mitigation specialists. Counsel may not petition for certification of expenses that may have been provided or compensated by the State Appellate Defender under item (c)(5) of Section 10 of the State Appellate Defender Act.

(d) Appointed trial counsel shall petition the court for certification of compensation and expenses under this Section periodically during the course of counsel's representation. If the court determines that the compensation and expenses should be paid from the Capital Litigation Trust Fund, the court shall certify, on a form created by the State Treasurer, that all or a designated portion of the amount requested is reasonable, necessary, and appropriate for payment from the Trust Fund. Certification of compensation and expenses by a court in any county other than Cook County shall be delivered by the court to the State Treasurer and paid by the State Treasurer directly from the Capital Litigation Trust Fund if there are sufficient moneys in the Trust Fund to pay the compensation and expenses. Certification of compensation and expenses by a court in Cook County shall be delivered by the court to the county treasurer and paid by the county treasurer from moneys granted to the county from the Capital Litigation Trust Fund.

(Source: P.A. 91-589, eff. 1-1-00.)

(725 ILCS 124/19)

(Section scheduled to be repealed on July 1, 2004)

Sec. 19. Report; repeal.

(a) The Cook County Public Defender, the Cook County State's Attorney, the State Appellate Defender, the State's Attorneys Appellate Prosecutor, and the Attorney General shall each report separately to the General Assembly by January 1, 2004 detailing the amounts of money received by them through this Act, the uses for which those funds were expended, the balances then in the Capital Litigation Trust Fund or county accounts, as the case may be, dedicated to them for the use and support of Public Defenders, appointed trial defense counsel, and State's Attorneys, as the case may be. The report shall describe and discuss the need for continued funding through the Fund and contain any suggestions for changes to this Act.

(b) (Blank) ~~Unless the General Assembly provides otherwise, this Act is repealed on July 1, 2004.~~

(Source: P.A. 91-589, eff. 1-1-00.)"; and

on page 73, line 29, by inserting after "5-4-3" the following: "and by adding Section 5-2-7"; and

on page 81, by inserting between lines 27 and 28 the following:

"(730 ILCS 5/5-2-7 new)

Sec. 5-2-7. Fitness to be executed.

(a) A person is unfit to be executed if the person is mentally retarded. For the purposes of this Section, "mentally retarded" means:

(1) having significantly sub-average general intellectual functioning as evidenced by a functional intelligence quotient (I.Q.) of 70 or below; and

(2) having deficits in adaptive behavior.

The mental retardation must have been manifested during the developmental period, or by 18 years of age.

(b) The question of fitness to be executed may be raised after pronouncement of the death sentence. The procedure for raising and

deciding the question shall be the same as that provided for raising and deciding the question of fitness to stand trial subject to the following specific provisions:

(1) the question shall be raised by motion filed in the sentencing court;

(2) the question shall be decided by the court;

(3) the burden of proving that the offender is unfit to be executed is on the offender;

(4) if the offender is found to be mentally retarded, the court must resentence the offender to natural life imprisonment under Chapter V of the Unified Code of Corrections."; and

on page 84, by replacing lines 19 and 20 with the following:

"Illinois and to all prosecutorial agencies. Notwithstanding the limits on disclosure stated by this subsection (f), the genetic marker grouping analysis information obtained under this Act also may be released by court order pursuant to a motion under Section 114-15 of the Code of Criminal Procedure of 1963 to a defendant who meets all of the requirements under that Section.

Notwithstanding any other statutory provision to the contrary, all".

With these specific recommendations for change, House Bill 2058 will have my approval. I respectfully request your concurrence.

Sincerely,
s/GEORGE H. RYAN
Governor

A message from the House by
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has accepted the Governor's specific recommendations for change, which are attached, to a bill of the following title, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL 4938

A bill for AN ACT concerning State records.

I am further instructed to deliver to you the objections of the Governor which are contained in the attached copy of his letter to the House of Representatives:

Adopted by the House, November 21, 2002.

ANTHONY D. ROSSI, Clerk of the House

I move to accept the specific recommendations of the Governor as to House Bill 4938 in manner and form as follows:

AMENDMENT TO HOUSE BILL 4938
IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend House Bill 4938 as follows:

on page 2, by replacing line 29 with the following:

"Sec. 3. Records as property of State.

(a) All records"; and

on page 3, by replacing line 5 with the following:

"prohibited by law.

(b) Reports and records of the obligation,"; and

on page 13, line 22, by inserting "subsection (b) of" after "of".

STATE OF ILLINOIS
OFFICE OF THE GOVERNOR
SPRINGFIELD, 62706

GEORGE H. RYAN
GOVERNOR

August 2, 2002

To the Honorable Members of the
Illinois House of Representatives
92nd General Assembly

Pursuant to the authority vested in the Governor by Article IV, Section 9(e) of the Illinois Constitution of 1970, and re-affirmed by the People of the State of Illinois by popular referendum in 1974, and conforming to the standard articulated by the Illinois Supreme Court in People ex Rel. Klinger v. Howlett, 50 Ill. 2d 242 (1972), Continental Illinois National Bank and Trust Co. v. Zagel, 78 Ill. 2d 387 (1979), People ex Rel. City of Canton v. Crouch, 79 Ill. 2d 356 (1980), and County of Kane v. Carlson, 116 Ill. 2d 186 (1987), that gubernatorial action be consistent with the fundamental purposes and the intent of the bill, I hereby return House Bill 4938 entitled "AN ACT concerning State records, " with my specific recommendation for change.

House Bill 4938 amends the State Records Act to include "digitized electronic material" and "databases" in definition of "record," and exempts "blank forms" from the definition of "record". House Bill 4938 makes changes regarding inspection and copying of certain records covered by the State Records Act. House Bill 4938 provides that the Auditor General shall audit agencies for compliance with the provisions of this Act and shall report findings to both the agency and the Secretary of State.

The legislation also makes it a Class 4 felony to knowingly and without authority alter, destroy, deface, remove or conceal any public record. The legislation also adds similar language to Section 3 of the State Records Act to prohibit records from being mutilated, destroyed, transferred, removed, or otherwise damaged or disposed of, except as provided by law. However, the current Section 24 of the State Records Act makes any violation of Section 3 a Class B misdemeanor. These two provisions have a penalty conflict, since both cover nearly the same type of prohibited conduct but have different penalties. When different penalties apply to offenses with the same elements, the courts are constitutionally required to apply only the lower penalty. Therefore, the new Class 4 felony penalty may be partially or totally invalidated by the addition to Section 3. I propose changes that will remove the conflict and make the Class 4 felony the applicable penalty.

For these reasons, I hereby return House Bill 4938 with the following specific recommendations for change:

on page 2, by replacing line 29 with the following:

"Sec. 3. Records as property of State.

(a) All records"; and

on page 3, by replacing line 5 with the following:

prohibited by law.

(b) Reports and records of the obligation,"; and

on page 13, line 22, by inserting "subsection (b) of' after "of'.

With these changes, House Bill 4938 will have my approval. I respectfully request your concurrence.

Sincerely,
s/GEORGE H. RYAN
Governor

By direction of the President, bills reported on the foregoing veto messages were placed on the Senate Calendar for Wednesday, December 4, 2002.

A message from the House by
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed bills of the following titles, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 2787

A bill for AN ACT concerning health care facilities.

HOUSE BILL NO. 4736

A bill for AN ACT in relation to public aid.

Passed the House, November 21, 2002.

ANTHONY D. ROSSI, Clerk of the House

The foregoing House Bills numbered 2787 and 4736 were taken up, ordered printed and placed on first reading.

A message from the House by
Mr. Rossi, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 980

A bill for AN ACT concerning local governments.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 980

Passed the House, as amended, November 20, 2002.

ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 980

AMENDMENT NO. 1. Amend Senate Bill 980 by replacing the title with the following:

"AN ACT concerning the Metropolitan Water Reclamation District."; and

by replacing everything after the enacting clause with:

"Section 5. The Metropolitan Water Reclamation District Act is amended by changing Section 4 as follows:

(70 ILCS 2605/4) (from Ch. 42, par. 323)

Sec. 4. The commissioners elected under this Act constitute a board of commissioners for the district by which they are elected, which board of commissioners is the corporate authority of the sanitary district, and, in addition to all other powers specified in this Act, shall establish the policies and goals of the sanitary district. The general superintendent, in addition to all other powers specified in this Act, shall manage and control all the affairs and property of the sanitary district and shall regularly report to the Board of Commissioners on the activities of the sanitary district in executing the policies and goals established by the board. At the regularly scheduled meeting of odd numbered years following the induction of new commissioners the board of commissioners shall elect from its own number a president and a vice-president to serve in the absence of the president, and the chairman of the committee on finance. The board shall provide by rule when a vacancy occurs in the office of the president, vice-president,

or the chairman of the committee on finance and the manner of filling such vacancy.

The board shall appoint from outside its own number the general superintendent and treasurer for the district.

The general superintendent must be a resident of the sanitary district and a citizen of the United States. He must be selected solely upon his administrative and technical qualifications and without regard to his political affiliations.

In the event of illness or other prolonged absence, death or resignation creating a vacancy in the office of the general superintendent, or treasurer, the board of commissioners may appoint an acting officer from outside its own number, to perform the duties and responsibilities of the office during the term of the absence or vacancy.

The general superintendent with the advice and consent of the board of commissioners, shall appoint the chief engineer, chief of maintenance and operations, director of personnel, purchasing agent, clerk, attorney, director of research and development, and director of information technology. These constitute the heads of the Department of Engineering, Maintenance and Operations, Personnel, Purchasing, Finance, Law, Research and Development, and Information Technology, respectively. No other departments or heads of departments may be created without subsequent amendment to this Act. All such department heads are under the direct supervision of the general superintendent.

The director of personnel must be qualified under Section 4.2a of this Act.

The purchasing agent must be selected in accordance with Section 11.16 of this Act.

In the event of illness or other prolonged absence, death or resignation creating a vacancy in the office of chief engineer, chief of maintenance and operations, director of personnel, purchasing agent, clerk, attorney, director of research and development, or director of information technology, the general superintendent shall appoint an acting officer to perform the duties and responsibilities of the office during the term of the absence or vacancy. Any such officers appointed in an acting capacity are under the direct supervision of the general superintendent.

All appointive officers and acting officers shall give bond as may be required by the board.

The general superintendent, treasurer, acting general superintendent and acting treasurer hold their offices at the pleasure of the board of commissioners.

The acting chief engineer, acting chief of maintenance and operations, acting purchasing agent, acting director of personnel, acting clerk, acting attorney, acting director of research and development, and acting director of information technology hold their offices at the pleasure of the general superintendent.

The chief engineer, chief of maintenance and operations, director of personnel, purchasing agent, clerk, attorney, director of research and development, and director of information technology may be removed from office for cause by the general superintendent. Prior to removal, such officers are entitled to a public hearing before the general superintendent at which hearing they may be represented by counsel. Before the hearing, the general superintendent shall notify the board of commissioners of the date, time, place and nature of the hearing.

In addition to the attorney appointed by the general superintendent, the board of commissioners may appoint from outside its own number an attorney, or retain counsel, to advise the board of

commissioners with respect to its powers and duties and with respect to legal questions and matters of policy for which the board of commissioners is responsible.

The general superintendent is the chief administrative officer of the district, has supervision over and is responsible for all administrative and operational matters of the sanitary district including the duties of all employees which are not otherwise designated by law, and is the appointing authority as specified in Section 4.11 of this Act.

The board, through the budget process, shall fix the compensation of all the officers and employees of the sanitary district. Any incumbent of the office of president may appoint an administrative aide which appointment remains in force during his incumbency unless revoked by the president.

Effective upon the election in January, 1985 of the president and vice-president of the board of commissioners and the chairman of the committee on finance, the annual salary of the president shall be $37,500 and shall be increased to $39,500 in January, 1987, $41,500 in January, 1989, $50,000 in January, 1991, ~~and~~ $60,000 in January, 2001, and $63,000 in January, 2003; the annual salary of the vice-president shall be $35,000 and shall be increased to $37,000 in January, 1987, $39,000 in January, 1989, $45,000 in January, 1991, ~~and~~ $55,000 in January, 2001, and $57,500 in January, 2003; the annual salary of the chairman of the committee on finance shall be $32,500 and shall be increased to $34,500 in January, 1987, $36,500 in January, 1989, $45,000 in January, 1991, and $55,000 in January, 2001, and $57,500 in January, 2003.

The annual salaries of the other members of the Board shall be as follows:

For the three members elected in November, 1980, $26,500 per annum for the first two years of the term; $28,000 per annum for the next two years of the term and $30,000 per annum for the last two years.

For the three members elected in November, 1982, $28,000 per annum for the first two years of the term and $30,000 per annum thereafter.

For members elected in November, 1984, $30,000 per annum.

For the three members elected in November, 1986, $32,000 for each of the first two years of the term, $34,000 for each of the next two years and $36,000 for the last two years;

For three members elected in November, 1988, $34,000 for each of the first two years of the term and $36,000 for each year thereafter.

For members elected in November, 1990, 1992, 1994, 1996, or 1998, $40,000.

For members elected in November, 2000 ~~and thereafter~~, $50,000.

For members elected in November, 2002 and thereafter, $52,000.

The board of commissioners has full power to pass all necessary ordinances, orders, rules, resolutions and regulations for the proper management and conduct of the business of the board of commissioners and the corporation and for carrying into effect the object for which the sanitary district is formed. All ordinances, orders, rules, resolutions and regulations passed by the board of commissioners must, before they take effect, be approved by the president of the board of commissioners. If he approves thereof, he shall sign them, and such as he does not approve he shall return to the board of commissioners with his objections in writing at the next regular meeting of the board of commissioners occurring after the passage thereof. Such veto may extend to any one or more items or appropriations contained in any ordinance making an appropriation, or to the entire ordinance. If the veto extends to a part of such

ordinance, the residue takes effect. If the president of such board of commissioners fails to return any ordinance, order, rule, resolution or regulation with his objections thereto in the time required, he is deemed to have approved it, and it takes effect accordingly. Upon the return of any ordinance, order, rule, resolution, or regulation by the president, the vote by which it was passed must be reconsidered by the board of commissioners, and if upon such reconsideration two-thirds of all the members agree by yeas and nays to pass it, it takes effect notwithstanding the president's refusal to approve thereof.

It is the policy of this State that all powers granted, either expressly or by necessary implication, by this Act or any other Illinois statute to the District may be exercised by the District notwithstanding effects on competition. It is the intention of the General Assembly that the "State action exemption" to the application of federal antitrust statutes be fully available to the District to the extent its activities are authorized by law as stated herein.
(Source: P.A. 91-722, eff. 6-2-00.)
Section 99. Effective date. This Act takes effect upon becoming law.".

Under the rules, the foregoing **Senate Bill No. 980**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by
Mr. Rossi, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1240
A bill for AN ACT respecting education.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:
House Amendment No. 1 to SENATE BILL NO. 1240
House Amendment No. 2 to SENATE BILL NO. 1240
House Amendment No. 3 to SENATE BILL NO. 1240

Passed the House, as amended, November 21, 2002.
ANTHONY D. ROSSI, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1240
AMENDMENT NO. 1. Amend Senate Bill 1240 on page 1, by replacing line 6 with the following:
"and 27-24.11 as follows:"; and
on page 1, line 9, by replacing "27-24.12" with "27-24.11"; and
on page 1, by replacing lines 12 through 30 with the following:
"(105 ILCS 5/27-24.9 new)
Sec. 27-24.9. Parent-directed or guardian-directed driver education.
(a) A parent or legal guardian may teach his or her child's driver education course if the parent or guardian:
(1) is a licensed driver;
(2) has not had his or her driver's license suspended within the past 5 years;
(3) has never been convicted of driving under the influence of alcohol, drugs, or intoxicating compounds, leaving the scene of an accident involving personal injury or death, or reckless

homicide and has never received a statutory summary suspension of his or her driver's license; and

(4) uses a parent-directed or guardian-directed driver education course that has been approved by the State Board of Education in accordance with this Section.

(b) Completion of a parent-directed or guardian-directed driver education course approved under this Section is equivalent to completion of a school-based driver education course approved by the State Board. A student participating in a parent-directed or guardian-directed driver education course approved by the State Board must meet the academic and age requirements for participating in driver education under Section 27-24.2 of this Code. The provider of an approved parent-directed or guardian-directed driver education course must, upon request, supply parents and guardians with the forms required to obtain an instruction permit under the Illinois Vehicle Code.

(c) A parent or guardian electing to teach his or her child's driver education course must maintain adequate records to demonstrate that the approved parent-directed or guardian-directed driver education course was completed and must provide those records to the person or company providing the course. The parent or guardian must supply all original tests from each lesson, original driver final evaluation sheets from each lesson, and all original driving logs from each lesson to the person or company providing the course. The parent or guardian must demonstrate proof of insurance to the person or company providing the course.

(d) A student participating in a parent-directed or guardian-directed driver education course must spend at least 30 hours in classroom instruction and 50 hours in practice driving instruction, including at least 10 hours of nighttime driving.

(e) The State Board may not approve a parent-directed or guardian-directed driver education course unless the State Board determines that the curriculum is at least equal to that required in a school-based driver education course approved by the State Board. The State Board, however, may not require that the classroom instruction be provided in a room having particular characteristics or equipment or that the motor vehicle used for the practice driving instruction have equipment other than the equipment required by law for operation on a highway.

(f) Before the State Board may approve a parent-directed or guardian-directed driver education course, the person or company offering the course must register with the Secretary of State to do business in Illinois and must have professional liability insurance in the amount of no less than $1,000,000, covering the course materials and person or company being considered and extending coverage to a student and his or her parent or guardian during practice driving instruction. The insurance policy must include the State of Illinois as an additional insured.

(g) The Secretary of State shall supply to providers with approved parent-directed or guardian-directed driver education courses applications and other materials necessary for obtaining an instruction permit under the Illinois Vehicle Code, upon the provider's request. The provider of the course must maintain adequate records and, upon request by the State Board or the Secretary of State, provide documentation verifying compliance with this Section and its implementing rules.

(h) The State Board, upon application accompanied by a $500 fee, which shall be deposited in the Driver Education Fund in the State treasury, is authorized to approve a parent-directed or guardian-directed driver education course if the course includes

lessons teaching students the dangers of drinking and driving and provides step-wise, systematic, and progressive levels of instruction with concurrent classroom and driving instruction that meets all other requirements of this Section. The course must have concurrent classroom and driving instruction, becoming more complex as the student's skill levels and knowledge increase and moving from simple driving decisions to more complex driving decisions as the student masters skill levels. The course must follow the following sequence:

(1) Students must be taught basic State laws and rules regarding driving and the mechanical operation of a motor vehicle. Students shall fulfill all requirements to receive their instruction permits under the Illinois Vehicle Code.

(2) Students must receive off-street instruction, graduating to driving on low-volume, 2-lane roads at a maximum speed of 30 miles per hour. Students must be taught basic driving rules and how to identify possible driving hazards.

(3) Students must graduate to driving on avenues and boulevards at a maximum speed of 35 miles per hour. Students must be taught car control, lane positions, and to focus on keeping the proper spacing around the motor vehicle.

(4) Students must continue to practice and improve their driving skills on avenues and boulevards. Students must graduate to driving on 4-lane roads with maximum speed limits of 45 miles per hour, while continuing to focus on proper lane positioning and lane use as well as vehicle spacing.

(5) Students must focus on the importance of driving at safe speeds under all conditions. Students must be instructed on how to deal with emergency road situations. Students must be permitted to drive in downtown traffic, on roads with a 45 mile per hour speed limit, and learn how to properly park their motor vehicles.

(6) Students must learn how to handle driving emergencies, learning collision avoidance techniques to be better prepared for the unexpected. Students must graduate to driving on the freeway.

(7) Students must focus on thinking and behavior while driving. Students must learn about automobile insurance, protecting themselves and their motor vehicles, and security measures that can be taken. Students must receive a final evaluation that includes freeway driving, city driving, rural driving, driving on busy 4-lane roads, and reversing, as applicable to the student's environment. Upon passing the final evaluation, the student shall qualify for certification of completion of the course.

(i) The provider of an approved parent-directed or guardian-directed driver education course must offer technical support during business hours Monday through Friday. The curriculum must provide a midcourse check point. At this point, all driving logs and classroom work must be reviewed by technical support to determine whether a parent or guardian is properly teaching the course. At the conclusion of the course, the provider must certify to the State Board whether the course has been successfully completed, including the total hours the student spent on the course, as evidenced by the records and affidavits submitted by the parent or guardian. Upon notification that the student has successfully completed the course, the State Board shall forward to the provider the State certification of completion of an approved driver education course. The provider shall forward the certification to the parent or guardian.

(j) The State Board may adopt any rules necessary to implement

this Section and shall make a listing of approved parent-directed or guardian-directed driver education courses available on its Internet web site.

(k) Nothing in this Section or Section 27-24.10 shall be construed to allow a school to subcontract for driver education.

(105 ILCS 5/27-24.10 new)

Sec. 27-24.10. Compliance; change in curriculum. A person or company providing an approved parent-directed or guardian-directed driver education course shall comply with all provisions of Sections 27-24.9 through 27-24.11 of this Code and any rules adopted under those Sections. Any proposed change in an approved curriculum shall be submitted to the State Board for approval before the change is implemented. The State Board must terminate the approval of any parent-directed or guardian-directed driver education course that is not in compliance with this Section or its implementing rules.

(105 ILCS 5/27-24.11 new)

Sec. 27-24.11. Penalty. A person is guilty of a Class C misdemeanor if he or she knowingly does any of the following:

(1) Offers or provides to parents and guardians a parent-directed or guardian-directed driver education course that has not been approved by the State Board.

(2) Provides false information to the State Board in an application for approval of a parent-directed or guardian-directed driver education course.

(3) Falsely certifies that a student has successfully completed a parent-directed or guardian-directed driver education course.

(4) Possesses a certificate of completion of a parent-directed or guardian-directed driver education course that he or she is not authorized to possess.

(5) Transfers a certificate of completion of a parent-directed or guardian-directed driver education course to a person who is not authorized to possess the certificate."; and

by deleting pages 2 and 3; and

on page 4, by deleting lines 1 through 8.

AMENDMENT NO. 2 TO SENATE BILL 1240

AMENDMENT NO. 2. Amend Senate Bill 1240, AS AMENDED, by replacing the title with the following:

"AN ACT concerning education, which may be referred to as the Chicago Education Reform Act of 2002."; and

by replacing everything after the enacting clause with the following:

"Section 5. The School Code is amended by changing Sections 27A-4, 27A-5, 27A-6, 27A-10, 34-8.1, and 34-18 and adding Section 34-3.5 as follows:

(105 ILCS 5/27A-4)

Sec. 27A-4. General Provisions.

(a) The General Assembly does not intend to alter or amend the provisions of any court-ordered desegregation plan in effect for any school district. A charter school shall be subject to all federal and State laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, marital status, or need for special education services.

(b) The total number of charter schools operating under this Article at any one time shall not exceed 60 ~~45~~. Not more than 30 ~~15~~ charter schools shall operate at any one time in any city having a population exceeding 500,000; not more than 15 charter schools shall operate at any one time in the counties of DuPage, Kane, Lake, McHenry, Will, and that portion of Cook County that is located

outside a city having a population exceeding 500,000, with not more than one charter school that has been initiated by a board of education, or by an intergovernmental agreement between or among boards of education, operating at any one time in the school district where the charter school is located; and not more than 15 charter schools shall operate at any one time in the remainder of the State, with not more than one charter school that has been initiated by a board of education, or by an intergovernmental agreement between or among boards of education, operating at any one time in the school district where the charter school is located.

For purposes of implementing this Section, the State Board shall assign a number to each charter submission it receives under Section 27A-6 for its review and certification, based on the chronological order in which the submission is received by it. The State Board shall promptly notify local school boards when the maximum numbers of certified charter schools authorized to operate have been reached.

(c) No charter shall be granted under this Article that would convert any existing private, parochial, or non-public school to a charter school.

(d) Enrollment in a charter school shall be open to any pupil who resides within the geographic boundaries of the area served by the local school board.

(e) Nothing in this Article shall prevent 2 or more local school boards from jointly issuing a charter to a single shared charter school, provided that all of the provisions of this Article are met as to those local school boards.

(f) No local school board shall require any employee of the school district to be employed in a charter school.

(g) No local school board shall require any pupil residing within the geographic boundary of its district to enroll in a charter school.

(h) If there are more eligible applicants for enrollment in a charter school than there are spaces available, successful applicants shall be selected by lottery. However, priority shall be given to siblings of pupils enrolled in the charter school and to pupils who were enrolled in the charter school the previous school year, unless expelled for cause. Dual enrollment at both a charter school and a public school or non-public school shall not be allowed. A pupil who is suspended or expelled from a charter school shall be deemed to be suspended or expelled from the public schools of the school district in which the pupil resides.

(i) (Blank).

(j) Notwithstanding any other provision of law to the contrary, a school district in a city having a population exceeding 500,000 shall not have a duty to collectively bargain with an exclusive representative of its employees over decisions to grant or deny a charter school proposal under Section 27A-8 of this Code, decisions to renew or revoke a charter under Section 27A-9 of this Code, and the impact of these decisions, provided that nothing in this Section shall have the effect of negating, abrogating, replacing, reducing, diminishing, or limiting in any way employee rights, guarantees, or privileges granted in Sections 2, 3, 7, 8, 10, 14, and 15 of the Illinois Educational Labor Relations Act.

(Source: P.A. 91-357, eff. 7-29-99; 91-405, eff. 8-3-99; 91-407, eff. 8-3-99; 92-16, eff. 6-28-01.)

(105 ILCS 5/27A-5)

Sec. 27A-5. Charter school; legal entity; requirements.

(a) A charter school shall be a public, nonsectarian, nonreligious, non-home based, and non-profit school. A charter school shall be organized and operated as a nonprofit corporation or

other discrete, legal, nonprofit entity authorized under the laws of the State of Illinois.

(b) A charter school may be established under this Article by creating a new school or by converting an existing public school or attendance center to charter school status. Beginning on the effective date of this amendatory Act of the 92nd General Assembly, in all new applications submitted to the State Board or a local school board to establish a charter school in a city having a population exceeding 500,000, operation of the charter school shall be limited to one campus. The changes made to this Section by this amendatory Act of the 92nd General Assembly do not apply to charter schools existing or approved on or before the effective date of this amendatory Act.

(c) A charter school shall be administered and governed by its board of directors or other governing body in the manner provided in its charter. The governing body of a charter school shall be subject to the Freedom of Information Act and the Open Meetings Act.

(d) A charter school shall comply with all applicable health and safety requirements applicable to public schools under the laws of the State of Illinois.

(e) Except as otherwise provided in the School Code, a charter school shall not charge tuition; provided that a charter school may charge reasonable fees for textbooks, instructional materials, and student activities.

(f) A charter school shall be responsible for the management and operation of its fiscal affairs including, but not limited to, the preparation of its budget. An audit of each charter school's finances shall be conducted annually by an outside, independent contractor retained by the charter school.

(g) A charter school shall comply with all provisions of this Article and its charter. A charter school is exempt from all other State laws and regulations in the School Code governing public schools and local school board policies, except the following:

(1) Sections 10-21.9 and 34-18.5 of the School Code regarding criminal background investigations of applicants for employment;

(2) Sections 24-24 and 34-84A of the School Code regarding discipline of students;

(3) The Local Governmental and Governmental Employees Tort Immunity Act;

(4) Section 108.75 of the General Not For Profit Corporation Act of 1986 regarding indemnification of officers, directors, employees, and agents;

(5) The Abused and Neglected Child Reporting Act;

(6) The Illinois School Student Records Act; and

(7) Section 10-17a of the School Code regarding school report cards.

(h) A charter school may negotiate and contract with a school district, the governing body of a State college or university or public community college, or any other public or for-profit or nonprofit private entity for: (i) the use of a school building and grounds or any other real property or facilities that the charter school desires to use or convert for use as a charter school site, (ii) the operation and maintenance thereof, and (iii) the provision of any service, activity, or undertaking that the charter school is required to perform in order to carry out the terms of its charter. However, a charter school operating in a city having a population exceeding 500,000 may not contract with a for-profit entity to manage or operate the school during the period that commences on the effective date of this amendatory Act of the 92nd General Assembly

and concludes at the end of the 2004-2005 school year. The changes made to this Section by this amendatory Act of the 92nd General Assembly do not apply to charter schools existing or approved on or before the effective date of this amendatory Act. Except as provided in subsection (i) of this Section, a school district may charge a charter school reasonable rent for the use of the district's buildings, grounds, and facilities. Any services for which a charter school contracts with a school district shall be provided by the district at cost. Any services for which a charter school contracts with a local school board or with the governing body of a State college or university or public community college shall be provided by the public entity at cost.

(i) In no event shall a charter school that is established by converting an existing school or attendance center to charter school status be required to pay rent for space that is deemed available, as negotiated and provided in the charter agreement, in school district facilities. However, all other costs for the operation and maintenance of school district facilities that are used by the charter school shall be subject to negotiation between the charter school and the local school board and shall be set forth in the charter.

(j) A charter school may limit student enrollment by age or grade level.

(Source: P.A. 91-407, eff. 8-3-99.)

(105 ILCS 5/27A-6)

Sec. 27A-6. Contract contents; applicability of laws and regulations.

(a) A certified charter shall constitute a binding contract and agreement between the charter school and a local school board under the terms of which the local school board authorizes the governing body of the charter school to operate the charter school on the terms specified in the contract.

(b) Notwithstanding any other provision of this Article, the certified charter may not waive or release the charter school from the State goals, standards, and assessments established pursuant to Section 2-3.64. Beginning with the 2003-2004 school year, the certified charter for a charter school operating in a city having a population exceeding 500,000 shall require the charter school to administer any other nationally recognized standardized tests to its students that the chartering entity administers to other students, and the results on such tests shall be included in the chartering entity's assessment reports.

(c) Subject to the provisions of subsection (e), a material revision to a previously certified contract or a renewal shall be made with the approval of both the local school board and the governing body of the charter school.

(c-5) The proposed contract shall include a provision on how both parties will address minor violations of the contract.

(d) The proposed contract between the governing body of a proposed charter school and the local school board as described in Section 27A-7 must be submitted to and certified by the State Board before it can take effect. If the State Board recommends that the proposed contract be modified for consistency with this Article before it can be certified, the modifications must be consented to by both the governing body of the charter school and the local school board, and resubmitted to the State Board for its certification. If the proposed contract is resubmitted in a form that is not consistent with this Article, the State Board may refuse to certify the charter.

The State Board shall assign a number to each submission or resubmission in chronological order of receipt, and shall determine

whether the proposed contract is consistent with the provisions of this Article. If the proposed contract complies, the State Board shall so certify.

(e) No material revision to a previously certified contract or a renewal shall be effective unless and until the State Board certifies that the revision or renewal is consistent with the provisions of this Article.

(Source: P.A. 91-407, eff. 8-3-99.)

(105 ILCS 5/27A-10)

Sec. 27A-10. Employees.

(a) A person shall be deemed to be employed by a charter school unless a collective bargaining agreement or the charter school contract otherwise provides.

(b) In all school districts, including special charter districts and districts located in cities having a population exceeding 500,000, the local school board shall determine by policy or by negotiated agreement, if one exists, the employment status of any school district employees who are employed by a charter school and who seek to return to employment in the public schools of the district. Each local school board shall grant, for a period of up to 5 years, a leave of absence to those of its teachers who accept employment with a charter school. At the end of the authorized leave of absence, the teacher must return to the school district or resign; provided, however, that if the teacher chooses to return to the school district, the teacher must be assigned to a position which requires the teacher's certification and legal qualifications. The contractual continued service status and retirement benefits of a teacher of the district who is granted a leave of absence to accept employment with a charter school shall not be affected by that leave of absence.

(c) Charter schools shall employ in instructional positions, as defined in the charter, individuals who are certificated under Article 21 of <u>this</u> ~~the School~~ Code or who possess the following qualifications:

(i) graduated with a bachelor's degree from an accredited institution of higher learning;

(ii) been employed for a period of at least 5 years in an area requiring application of the individual's education;

(iii) passed the tests of basic skills and subject matter knowledge required by Section 21-1a of the School Code; and

(iv) demonstrate continuing evidence of professional growth which shall include, but not be limited to, successful teaching experience, attendance at professional meetings, membership in professional organizations, additional credits earned at institutions of higher learning, travel specifically for educational purposes, and reading of professional books and periodicals.

Charter schools employing individuals without certification in instructional positions shall provide such mentoring, training, and staff development for those individuals as the charter schools determine necessary for satisfactory performance in the classroom.

<u>Beginning with the 2006-2007 school year, at least 50% of the individuals employed in instructional positions by a charter school that is operating in a city having a population exceeding 500,000 and that is established on or after the effective date of this amendatory Act of the 92nd General Assembly shall hold teaching certificates issued under Article 21 of this Code.</u>

<u>Beginning with the 2006-2007 school year, at least 75% of the individuals employed in instructional positions by a charter school that is operating in a city having a population exceeding 500,000 and</u>

that is established before the effective date of this amendatory Act of the 92nd General Assembly shall hold teaching certificates issued under Article 21 of this Code.

Charter schools operating in a city having a population exceeding 500,000 are exempt from any annual cap on new participants in an alternative certification program. The second and third phases of the alternative certification program may be conducted and completed at the charter school, and the alternative teaching certificate is valid for 4 years or the length of the charter (or any extension of the charter), whichever is longer.

Notwithstanding any other provisions of the School Code, charter schools may employ non-certificated staff in all other positions.

(d) A teacher at a charter school may resign his or her position only if the teacher gives notice of resignation to the charter school's governing body at least 60 days before the end of the school term, and the resignation must take effect immediately upon the end of the school term.

(Source: P.A. 89-450, eff. 4-10-96.)

(105 ILCS 5/34-3.5 new)

Sec. 34-3.5. Partnership agreement on advancing student achievement; No Child Left Behind Act of 2001.

(a) The General Assembly finds that the Chicago Teachers Union, the Chicago Board of Education, and the district's chief executive officer have a common responsibility beyond their statutory collective bargaining relationship to institute purposeful education reforms in the Chicago Public Schools that maximize the number of students in the Chicago Public Schools who reach or exceed proficiency with regard to State academic standards and assessments. The General Assembly further finds that education reform in the Chicago Public Schools must be premised on a commitment by all stakeholders to redefine relationships, develop, implement, and evaluate programs, seek new and additional resources, improve the value of educational programs to students, accelerate the quality of teacher training, improve instructional excellence, and develop and implement strategies to comply with the federal No Child Left Behind Act of 2001 (Public Law 107-110).

The Chicago Board of Education and the district's chief executive officer shall enter into a partnership agreement with the Chicago Teachers Union to allow the parties to work together to advance the Chicago Public Schools to the next level of education reform. This agreement must be entered into and take effect within 90 days after the effective date of this amendatory Act of the 92nd General Assembly. As part of this agreement, the Chicago Teachers Union, the Chicago Board of Education, and the district's chief executive officer shall jointly file a report with the General Assembly at the end of each school year with respect to the nature of the reforms that the parties have instituted, the effect of these reforms on student achievement, and any other matters that the parties deem relevant to evaluating the effectiveness of the agreement.

(b) Decisions concerning matters of inherent managerial policy necessary to comply with the federal No Child Left Behind Act of 2001 (Public Law 107-110), including such areas of discretion or policy as the functions of the employer, the standards and delivery of educational services and programs, the district's overall budget, the district's organizational structure, student assignment, school choice, and the selection of new employees and direction of employees, and the impact of these decisions on individual employees or the bargaining unit shall be permissive subjects of bargaining between the educational employer and the exclusive bargaining representative and are within the sole discretion of the educational

employer to decide to bargain, notwithstanding any other provision of this Code or any provision of Section 4.5 of the Illinois Educational Labor Relations Act to the contrary (provided that any dispute or impasse that may arise under this subsection (b) shall be resolved exclusively as set forth in subsection (b) of Section 12 of the Illinois Educational Labor Relations Act in lieu of a strike under Section 13 of the Illinois Educational Labor Relations Act).

(105 ILCS 5/34-8.1) (from Ch. 122, par. 34-8.1)

Sec. 34-8.1. Principals. Principals shall be employed to supervise the operation of each attendance center. Their powers and duties shall include but not be limited to the authority (i) to direct, supervise, evaluate, and suspend with or without pay or otherwise discipline all teachers, assistant principals, and other employees assigned to the attendance center in accordance with board rules and policies and (ii) to direct all other persons assigned to the attendance center pursuant to a contract with a third party to provide services to the school system. The right to employ, discharge, and layoff shall be vested solely with the board, provided that decisions to discharge or suspend non-certified employees, including disciplinary layoffs, and the termination of certified employees from employment pursuant to a layoff or reassignment policy is subject to review under a grievance resolution procedure adopted pursuant to subsection (c) of Section 10 of the Illinois Educational Labor Relations Act. The grievance resolution procedure, if adopted by the board, shall provide for final and binding arbitration, and, notwithstanding any other provision of law to the contrary, the arbitrator's decision may include all make-whole relief, including without limitation reinstatement. The principal shall fill positions by appointment as provided in this Section and may make recommendations to the board regarding the employment, discharge, or layoff of any individual. The authority of the principal shall include the authority to direct the hours during which the attendance center shall be open and available for use provided the use complies with board rules and policies, to determine when and what operations shall be conducted within those hours, and to schedule staff within those hours. Under the direction of, and subject to the authority of the principal, the Engineer In Charge shall be accountable for the safe, economical operation of the plant and grounds and shall also be responsible for orientation, training, and supervising the work of Engineers, Trainees, school maintenance assistants, custodial workers and other plant operation employees under his or her direction.

There shall be established by the board a system of semi-annual evaluations conducted by the principal as to performance of the engineer in charge. Nothing in this Section shall prevent the principal from conducting additional evaluations. An overall numerical rating shall be given by the principal based on the evaluation conducted by the principal. An unsatisfactory numerical rating shall result in disciplinary action, which may include, without limitation and in the judgment of the principal, loss of promotion or bidding procedure, reprimand, suspension with or without pay, or recommended dismissal. The board shall establish procedures for conducting the evaluation and reporting the results to the engineer in charge.

Under the direction of, and subject to the authority of, the principal, the Food Service Manager is responsible at all times for the proper operation and maintenance of the lunch room to which he is assigned and shall also be responsible for the orientation, training, and supervising the work of cooks, bakers, porters, and lunchroom attendants under his or her direction.

There shall be established by the Board a system of semi-annual

evaluations conducted by the principal as to the performance of the food service manager. Nothing in this Section shall prevent the principal from conducting additional evaluations. An overall numerical rating shall be given by the principal based on the evaluation conducted by the principal. An unsatisfactory numerical rating shall result in disciplinary action which may include, without limitation and in the judgment of the principal, loss of promotion or bidding procedure, reprimand, suspension with or without pay, or recommended dismissal. The board shall establish rules for conducting the evaluation and reporting the results to the food service manager.

Nothing in this Section shall be interpreted to require the employment or assignment of an Engineer-In-Charge or a Food Service Manager for each attendance center.

Principals shall be employed to supervise the educational operation of each attendance center. If a principal is absent due to extended illness or leave or absence, an assistant principal may be assigned as acting principal for a period not to exceed 100 school days. Each principal shall assume administrative responsibility and instructional leadership, in accordance with reasonable rules and regulations of the board, for the planning, operation and evaluation of the educational program of the attendance center to which he is assigned. The principal shall submit recommendations to the general superintendent concerning the appointment, dismissal, retention, promotion, and assignment of all personnel assigned to the attendance center; provided, that from and after September 1, 1989: (i) if any vacancy occurs in a position at the attendance center or if an additional or new position is created at the attendance center, that position shall be filled by appointment made by the principal in accordance with procedures established and provided by the Board whenever the majority of the duties included in that position are to be performed at the attendance center which is under the principal's supervision, and each such appointment so made by the principal shall be made and based upon merit and ability to perform in that position without regard to seniority or length of service, provided, that such appointments shall be subject to the Board's desegregation obligations, including but not limited to the Consent Decree and Desegregation Plan in U.S. v. Chicago Board of Education; (ii) the principal shall submit recommendations based upon merit and ability to perform in the particular position, without regard to seniority or length of service, to the general superintendent concerning the appointment of any teacher, teacher aide, counselor, clerk, hall guard, security guard and any other personnel which is to be made by the general superintendent whenever less than a majority of the duties of that teacher, teacher aide, counselor, clerk, hall guard, and security guard and any other personnel are to be performed at the attendance center which is under the principal's supervision; and (iii) subject to law and the applicable collective bargaining agreements, the authority and responsibilities of a principal with respect to the evaluation of all teachers and other personnel assigned to an attendance center shall commence immediately upon his or her appointment as principal of the attendance center, without regard to the length of time that he or she has been the principal of that attendance center.

Notwithstanding the existence of any other law of this State, nothing in this Act shall prevent the board from entering into a contract with a third party for services currently performed by any employee or bargaining unit member.

Notwithstanding any other provision of this Article, each principal may approve contracts, binding on the board, in the amount

of no more than $10,000, if the contract is endorsed by the Local School Council.

Unless otherwise prohibited by law or by rule of the board, the principal shall provide to local school council members copies of all internal audits and any other pertinent information generated by any audits or reviews of the programs and operation of the attendance center.

Each principal shall hold a valid administrative certificate issued or exchanged in accordance with Article 21 and endorsed as required by that Article for the position of principal. The board may establish or impose academic, educational, examination, and experience requirements and criteria that are in addition to those established and required by Article 21 for issuance of a valid certificate endorsed for the position of principal as a condition of the nomination, selection, appointment, employment, or continued employment of a person as principal of any attendance center, or as a condition of the renewal of any principal's performance contract.

The board shall specify in its formal job description for principals, and from and after July 1, 1990 shall specify in the 4 year performance contracts for use with respect to all principals, that his or her primary responsibility is in the improvement of instruction. A majority of the time spent by a principal shall be spent on curriculum and staff development through both formal and informal activities, establishing clear lines of communication regarding school goals, accomplishments, practices and policies with parents and teachers. The principal, with the assistance of the local school council, shall develop a school improvement plan as provided in Section 34-2.4 and, upon approval of the plan by the local school council, shall be responsible for directing implementation of the plan. The principal, with the assistance of the Professional Personnel Advisory Committee, shall develop the specific methods and contents of the school's curriculum within the board's system-wide curriculum standards and objectives and the requirements of the school improvement plan. The board shall ensure that all principals are evaluated on their instructional leadership ability and their ability to maintain a positive education and learning climate. It shall also be the responsibility of the principal to utilize resources of proper law enforcement agencies when the safety and welfare of students and teachers are threatened by illegal use of drugs and alcohol, by illegal use or possession of weapons, or by illegal gang activity.

On or before October 1, 1989, the Board of Education, in consultation with any professional organization representing principals in the district, shall promulgate rules and implement a lottery for the purpose of determining whether a principal's existing performance contract (including the performance contract applicable to any principal's position in which a vacancy then exists) expires on June 30, 1990 or on June 30, 1991, and whether the ensuing 4 year performance contract begins on July 1, 1990 or July 1, 1991. The Board of Education shall establish and conduct the lottery in such manner that of all the performance contracts of principals (including the performance contracts applicable to all principal positions in which a vacancy then exists), 50% of such contracts shall expire on June 30, 1990, and 50% shall expire on June 30, 1991. All persons serving as principal on May 1, 1989, and all persons appointed as principal after May 1, 1989 and prior to July 1, 1990 or July 1, 1991, in a manner other than as provided by Section 34-2.3, shall be deemed by operation of law to be serving under a performance contract which expires on June 30, 1990 or June 30, 1991; and unless such performance contract of any such principal is renewed (or such person

is again appointed to serve as principal) in the manner provided by Section 34-2.2 or 34-2.3, the employment of such person as principal shall terminate on June 30, 1990 or June 30, 1991.

Commencing on July 1, 1990, or on July 1, 1991, and thereafter, the principal of each attendance center shall be the person selected in the manner provided by Section 34-2.3 to serve as principal of that attendance center under a 4 year performance contract. All performance contracts of principals expiring after July 1, 1990, or July 1, 1991, shall commence on the date specified in the contract, and the renewal of their performance contracts and the appointment of principals when their performance contracts are not renewed shall be governed by Sections 34-2.2 and 34-2.3. Whenever a vacancy in the office of a principal occurs for any reason, the vacancy shall be filled by the selection of a new principal to serve under a 4 year performance contract in the manner provided by Section 34-2.3.

The board of education shall develop and prepare, in consultation with the organization representing principals, a performance contract for use at all attendance centers, and shall furnish the same to each local school council. The term of the performance contract shall be 4 years, unless the principal is retained by the decision of a hearing officer pursuant to subdivision 1.5 of Section 34-2.3, in which case the contract shall be extended for 2 years. The performance contract of each principal shall consist of the uniform performance contract, as developed or from time to time modified by the board, and such additional criteria as are established by a local school council pursuant to Section 34-2.3 for the performance contract of its principal.

During the term of his or her performance contract, a principal may be removed only as provided for in the performance contract except for cause. He or she shall also be obliged to follow the rules of the board of education concerning conduct and efficiency.

In the event the performance contract of a principal is not renewed or a principal is not reappointed as principal under a new performance contract, or in the event a principal is appointed to any position of superintendent or higher position, or voluntarily resigns his position of principal, his or her employment as a principal shall terminate and such former principal shall not be reinstated to the position from which he or she was promoted to principal, except that he or she, if otherwise qualified and certified in accordance with Article 21, shall be placed by the board on appropriate eligibility lists which it prepares for use in the filling of vacant or additional or newly created positions for teachers. The principal's total years of service to the board as both a teacher and a principal, or in other professional capacities, shall be used in calculating years of experience for purposes of being selected as a teacher into new, additional or vacant positions.

In the event the performance contract of a principal is not renewed or a principal is not reappointed as principal under a new performance contract, such principal shall be eligible to continue to receive his or her previously provided level of health insurance benefits for a period of 90 days following the non-renewal of the contract at no expense to the principal, provided that such principal has not retired.

(Source: P.A. 91-622, eff. 8-19-99; 91-728, eff. 6-2-00.)

(105 ILCS 5/34-18) (from Ch. 122, par. 34-18)

Sec. 34-18. Powers of the board. The board shall exercise general supervision and jurisdiction over the public education and the public school system of the city, and, except as otherwise provided by this Article, shall have power:

1. To make suitable provision for the establishment and

maintenance throughout the year or for such portion thereof as it may direct, not less than 9 months, of schools of all grades and kinds, including normal schools, high schools, night schools, schools for defectives and delinquents, parental and truant schools, schools for the blind, the deaf and the crippled, schools or classes in manual training, constructural and vocational teaching, domestic arts and physical culture, vocation and extension schools and lecture courses, and all other educational courses and facilities, including establishing, equipping, maintaining and operating playgrounds and recreational programs, when such programs are conducted in, adjacent to, or connected with any public school under the general supervision and jurisdiction of the board; provided, however, that in allocating funds from year to year for the operation of all attendance centers within the district, the board shall ensure that supplemental general State aid funds are allocated and applied in accordance with Section 18-8 or 18-8.05. To admit to such schools without charge foreign exchange students who are participants in an organized exchange student program which is authorized by the board. The board shall permit all students to enroll in apprenticeship programs in trade schools operated by the board, whether those programs are union-sponsored or not. No student shall be refused admission into or be excluded from any course of instruction offered in the common schools by reason of that student's sex. No student shall be denied equal access to physical education and interscholastic athletic programs supported from school district funds or denied participation in comparable physical education and athletic programs solely by reason of the student's sex. Equal access to programs supported from school district funds and comparable programs will be defined in rules promulgated by the State Board of Education in consultation with the Illinois High School Association. Notwithstanding any other provision of this Article, neither the board of education nor any local school council or other school official shall recommend that children with disabilities be placed into regular education classrooms unless those children with disabilities are provided with supplementary services to assist them so that they benefit from the regular classroom instruction and are included on the teacher's regular education class register;

2. To furnish lunches to pupils, to make a reasonable charge therefor, and to use school funds for the payment of such expenses as the board may determine are necessary in conducting the school lunch program;

3. To co-operate with the circuit court;

4. To make arrangements with the public or quasi-public libraries and museums for the use of their facilities by teachers and pupils of the public schools;

5. To employ dentists and prescribe their duties for the purpose of treating the pupils in the schools, but accepting such treatment shall be optional with parents or guardians;

6. To grant the use of assembly halls and classrooms when not otherwise needed, including light, heat, and attendants, for free public lectures, concerts, and other educational and social interests, free of charge, under such provisions and control as the principal of the affected attendance center may prescribe;

7. To apportion the pupils to the several schools; provided that no pupil shall be excluded from or segregated in any such school on account of his color, race, sex, or nationality. The board shall take into consideration the prevention of segregation

and the elimination of separation of children in public schools because of color, race, sex, or nationality. Except that children may be committed to or attend parental and social adjustment schools established and maintained either for boys or girls only. All records pertaining to the creation, alteration or revision of attendance areas shall be open to the public. Nothing herein shall limit the board's authority to establish multi-area attendance centers or other student assignment systems for desegregation purposes or otherwise, and to apportion the pupils to the several schools. Furthermore, beginning in school year 1994-95, pursuant to a board plan adopted by October 1, 1993, the board shall offer, commencing on a phased-in basis, the opportunity for families within the school district to apply for enrollment of their children in any attendance center within the school district which does not have selective admission requirements approved by the board. The appropriate geographical area in which such open enrollment may be exercised shall be determined by the board of education. Such children may be admitted to any such attendance center on a space available basis after all children residing within such attendance center's area have been accommodated. If the number of applicants from outside the attendance area exceed the space available, then successful applicants shall be selected by lottery. The board of education's open enrollment plan must include provisions that allow low income students to have access to transportation needed to exercise school choice. Open enrollment shall be in compliance with the provisions of the Consent Decree and Desegregation Plan cited in Section 34-1.01;

8. To approve programs and policies for providing transportation services to students. Nothing herein shall be construed to permit or empower the State Board of Education to order, mandate, or require busing or other transportation of pupils for the purpose of achieving racial balance in any school;

9. Subject to the limitations in this Article, to establish and approve system-wide curriculum objectives and standards, including graduation standards, which reflect the multi-cultural diversity in the city and are consistent with State law, provided that for all purposes of this Article courses or proficiency in American Sign Language shall be deemed to constitute courses or proficiency in a foreign language; and to employ principals and teachers, appointed as provided in this Article, and fix their compensation. The board shall prepare such reports related to minimal competency testing as may be requested by the State Board of Education, and in addition shall monitor and approve special education and bilingual education programs and policies within the district to assure that appropriate services are provided in accordance with applicable State and federal laws to children requiring services and education in those areas;

10. To employ non-teaching personnel or utilize volunteer personnel for: (i) non-teaching duties not requiring instructional judgment or evaluation of pupils, including library duties; and (ii) supervising study halls, long distance teaching reception areas used incident to instructional programs transmitted by electronic media such as computers, video, and audio, detention and discipline areas, and school-sponsored extracurricular activities. The board may further utilize volunteer non-certificated personnel or employ non-certificated personnel to assist in the instruction of pupils under the immediate supervision of a teacher holding a valid certificate, directly engaged in teaching subject matter or conducting

activities; provided that the teacher shall be continuously aware of the non-certificated persons' activities and shall be able to control or modify them. The general superintendent shall determine qualifications of such personnel and shall prescribe rules for determining the duties and activities to be assigned to such personnel;

10.5. To utilize volunteer personnel from a regional School Crisis Assistance Team (S.C.A.T.), created as part of the Safe to Learn Program established pursuant to Section 25 of the Illinois Violence Prevention Act of 1995, to provide assistance to schools in times of violence or other traumatic incidents within a school community by providing crisis intervention services to lessen the effects of emotional trauma on individuals and the community; the School Crisis Assistance Team Steering Committee shall determine the qualifications for volunteers;

11. To provide television studio facilities in not to exceed one school building and to provide programs for educational purposes, provided, however, that the board shall not construct, acquire, operate, or maintain a television transmitter; to grant the use of its studio facilities to a licensed television station located in the school district; and to maintain and operate not to exceed one school radio transmitting station and provide programs for educational purposes;

12. To offer, if deemed appropriate, outdoor education courses, including field trips within the State of Illinois, or adjacent states, and to use school educational funds for the expense of the said outdoor educational programs, whether within the school district or not;

13. During that period of the calendar year not embraced within the regular school term, to provide and conduct courses in subject matters normally embraced in the program of the schools during the regular school term and to give regular school credit for satisfactory completion by the student of such courses as may be approved for credit by the State Board of Education;

14. To insure against any loss or liability of the board, the former School Board Nominating Commission, Local School Councils, the Chicago Schools Academic Accountability Council, or the former Subdistrict Councils or of any member, officer, agent or employee thereof, resulting from alleged violations of civil rights arising from incidents occurring on or after September 5, 1967 or from the wrongful or negligent act or omission of any such person whether occurring within or without the school premises, provided the officer, agent or employee was, at the time of the alleged violation of civil rights or wrongful act or omission, acting within the scope of his employment or under direction of the board, the former School Board Nominating Commission, the Chicago Schools Academic Accountability Council, Local School Councils, or the former Subdistrict Councils; and to provide for or participate in insurance plans for its officers and employees, including but not limited to retirement annuities, medical, surgical and hospitalization benefits in such types and amounts as may be determined by the board; provided, however, that the board shall contract for such insurance only with an insurance company authorized to do business in this State. Such insurance may include provision for employees who rely on treatment by prayer or spiritual means alone for healing, in accordance with the tenets and practice of a recognized religious denomination;

15. To contract with the corporate authorities of any

municipality or the county board of any county, as the case may be, to provide for the regulation of traffic in parking areas of property used for school purposes, in such manner as is provided by Section 11-209 of The Illinois Vehicle Code, approved September 29, 1969, as amended;

16. (a) To provide, on an equal basis, access to a high school campus and student directory information to the official recruiting representatives of the armed forces of Illinois and the United States for the purposes of informing students of the educational and career opportunities available in the military if the board has provided such access to persons or groups whose purpose is to acquaint students with educational or occupational opportunities available to them. The board is not required to give greater notice regarding the right of access to recruiting representatives than is given to other persons and groups. In this paragraph 16, "directory information" means a high school student's name, address, and telephone number.

(b) If a student or his or her parent or guardian submits a signed, written request to the high school before the end of the student's sophomore year (or if the student is a transfer student, by another time set by the high school) that indicates that the student or his or her parent or guardian does not want the student's directory information to be provided to official recruiting representatives under subsection (a) of this Section, the high school may not provide access to the student's directory information to these recruiting representatives. The high school shall notify its students and their parents or guardians of the provisions of this subsection (b).

(c) A high school may require official recruiting representatives of the armed forces of Illinois and the United States to pay a fee for copying and mailing a student's directory information in an amount that is not more than the actual costs incurred by the high school.

(d) Information received by an official recruiting representative under this Section may be used only to provide information to students concerning educational and career opportunities available in the military and may not be released to a person who is not involved in recruiting students for the armed forces of Illinois or the United States;

17. (a) To sell or market any computer program developed by an employee of the school district, provided that such employee developed the computer program as a direct result of his or her duties with the school district or through the utilization of the school district resources or facilities. The employee who developed the computer program shall be entitled to share in the proceeds of such sale or marketing of the computer program. The distribution of such proceeds between the employee and the school district shall be as agreed upon by the employee and the school district, except that neither the employee nor the school district may receive more than 90% of such proceeds. The negotiation for an employee who is represented by an exclusive bargaining representative may be conducted by such bargaining representative at the employee's request.

(b) For the purpose of this paragraph 17:

(1) "Computer" means an internally programmed, general purpose digital device capable of automatically accepting data, processing data and supplying the results of the operation.

(2) "Computer program" means a series of coded instructions or statements in a form acceptable to a

computer, which causes the computer to process data in order to achieve a certain result.

(3) "Proceeds" means profits derived from marketing or sale of a product after deducting the expenses of developing and marketing such product;

18. To delegate to the general superintendent of schools, by resolution, the authority to approve contracts and expenditures in amounts of $10,000 or less;

19. Upon the written request of an employee, to withhold from the compensation of that employee any dues, payments or contributions payable by such employee to any labor organization as defined in the Illinois Educational Labor Relations Act. Under such arrangement, an amount shall be withheld from each regular payroll period which is equal to the pro rata share of the annual dues plus any payments or contributions, and the board shall transmit such withholdings to the specified labor organization within 10 working days from the time of the withholding;

19a. Upon receipt of notice from the comptroller of a municipality with a population of 500,000 or more, a county with a population of 3,000,000 or more, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or a housing authority of a municipality with a population of 500,000 or more that a debt is due and owing the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority by an employee of the Chicago Board of Education, to withhold, from the compensation of that employee, the amount of the debt that is due and owing and pay the amount withheld to the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority; provided, however, that the amount deducted from any one salary or wage payment shall not exceed 25% of the net amount of the payment. Before the Board deducts any amount from any salary or wage of an employee under this paragraph, the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority shall certify that (i) the employee has been afforded an opportunity for a hearing to dispute the debt that is due and owing the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority and (ii) the employee has received notice of a wage deduction order and has been afforded an opportunity for a hearing to object to the order. For purposes of this paragraph, "net amount" means that part of the salary or wage payment remaining after the deduction of any amounts required by law to be deducted and "debt due and owing" means (i) a specified sum of money owed to the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the housing authority for services, work, or goods, after the period granted for payment has expired, or (ii) a specified sum of money owed to the municipality, the county, the Cook County Forest Preserve District, the Chicago Park District, the Metropolitan Water Reclamation District, the Chicago Transit Authority, or the

housing authority pursuant to a court order or order of an administrative hearing officer after the exhaustion of, or the failure to exhaust, judicial review;

20. The board is encouraged to employ a sufficient number of certified school counselors to maintain a student/counselor ratio of 250 to 1 by July 1, 1990. Each counselor shall spend at least 75% of his work time in direct contact with students and shall maintain a record of such time;

21. To make available to students vocational and career counseling and to establish 5 special career counseling days for students and parents. On these days representatives of local businesses and industries shall be invited to the school campus and shall inform students of career opportunities available to them in the various businesses and industries. Special consideration shall be given to counseling minority students as to career opportunities available to them in various fields. For the purposes of this paragraph, minority student means a person who is:

(a) Black (a person having origins in any of the black racial groups in Africa);

(b) Hispanic (a person of Spanish or Portuguese culture with origins in Mexico, South or Central America, or the Caribbean islands, regardless of race);

(c) Asian American (a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent or the Pacific Islands); or

(d) American Indian or Alaskan Native (a person having origins in any of the original peoples of North America).

Counseling days shall not be in lieu of regular school days;

22. To report to the State Board of Education the annual student dropout rate and number of students who graduate from, transfer from or otherwise leave bilingual programs;

23. Except as otherwise provided in the Abused and Neglected Child Reporting Act or other applicable State or federal law, to permit school officials to withhold, from any person, information on the whereabouts of any child removed from school premises when the child has been taken into protective custody as a victim of suspected child abuse. School officials shall direct such person to the Department of Children and Family Services, or to the local law enforcement agency if appropriate;

24. To develop a policy, based on the current state of existing school facilities, projected enrollment and efficient utilization of available resources, for capital improvement of schools and school buildings within the district, addressing in that policy both the relative priority for major repairs, renovations and additions to school facilities, and the advisability or necessity of building new school facilities or closing existing schools to meet current or projected demographic patterns within the district;

25. To make available to the students in every high school attendance center the ability to take all courses necessary to comply with the Board of Higher Education's college entrance criteria effective in 1993;

26. To encourage mid-career changes into the teaching profession, whereby qualified professionals become certified teachers, by allowing credit for professional employment in related fields when determining point of entry on teacher pay scale;

27. To provide or contract out training programs for administrative personnel and principals with revised or expanded

duties pursuant to this Act in order to assure they have the knowledge and skills to perform their duties;

28. To establish a fund for the prioritized special needs programs, and to allocate such funds and other lump sum amounts to each attendance center in a manner consistent with the provisions of part 4 of Section 34-2.3. Nothing in this paragraph shall be construed to require any additional appropriations of State funds for this purpose;

29. (Blank);

30. Notwithstanding any other provision of this Act or any other law to the contrary, to contract with third parties for services otherwise performed by employees, including those in a bargaining unit, and to layoff those employees upon 14 days written notice to the affected employees. Those contracts may be for a period not to exceed 5 years and may be awarded on a system-wide basis;

31. To promulgate rules establishing procedures governing the layoff or reduction in force of employees and the recall of such employees, including, but not limited to, criteria for such layoffs, reductions in force or recall rights of such employees and the weight to be given to any particular criterion. Such criteria shall take into account factors including, but not be limited to, qualifications, certifications, experience, performance ratings or evaluations, and any other factors relating to an employee's job performance; ~~and~~

32. To develop a policy to prevent nepotism in the hiring of personnel or the selection of contractors~~;~~.

33. To enter into a partnership agreement, as required by Section 34-3.5 of this Code, and, notwithstanding any other provision of law to the contrary, to promulgate policies, enter into contracts, and take any other action necessary to accomplish the objectives and implement the requirements of that agreement; and

34. To establish a Labor Management Council to the board comprised of representatives of the board, the chief executive officer, and those labor organizations that are the exclusive representatives of employees of the board and to promulgate policies and procedures for the operation of the Council.

The specifications of the powers herein granted are not to be construed as exclusive but the board shall also exercise all other powers that they may be requisite or proper for the maintenance and the development of a public school system, not inconsistent with the other provisions of this Article or provisions of this Code which apply to all school districts.

In addition to the powers herein granted and authorized to be exercised by the board, it shall be the duty of the board to review or to direct independent reviews of special education expenditures and services. The board shall file a report of such review with the General Assembly on or before May 1, 1990.

(Source: P.A. 92-109, eff. 7-20-01; 92-527, eff. 6-1-02; 92-724, eff. 7-25-02; revised 9-24-02.)

Section 10. The Illinois Educational Labor Relations Act is amended by changing Sections 4.5 and 12 as follows:

(115 ILCS 5/4.5)

Sec. 4.5. ~~Prohibited~~ Subjects of collective bargaining.

(a) Notwithstanding the existence of any other provision in this Act or other law, collective bargaining between an educational employer whose territorial boundaries are coterminous with those of a city having a population in excess of 500,000 and an exclusive representative of its employees <u>may</u> ~~shall--not~~ include any of the

following subjects:

(1) (Blank). ~~Decisions to grant or deny a charter school proposal under Section 27A-8 of the Charter Schools Law, to renew or revoke a charter under Section 27A-9 of the Charter Schools Law, or to grant or deny a leave of absence to an employee of a school district to become an employee of a charter school, and the impact of these decisions on individual employees or the bargaining unit.~~

(2) Decisions to contract with a third party for one or more services otherwise performed by employees in a bargaining unit and, the procedures for obtaining such contract or the identity of the third party, ~~and the impact of these decisions on individual employees or the bargaining unit~~.

(3) Decisions to layoff or reduce in force employees ~~(including but not limited to reserve teachers or teachers who are no longer on an administrative payroll) due to lack of work or funds, including but not limited to decline in student enrollment, change in subject requirements within the attendance center, organization, closing of an attendance center, or contracts with third parties for the performance of services, and the impact of these decisions on individual employees or the bargaining unit~~.

(4) Decisions to determine class size, class staffing and assignment, class schedules, academic calendar, hours and places of instruction, or pupil assessment policies, ~~and the impact of these decisions on individual employees or the bargaining unit~~.

(5) Decisions concerning use and staffing of experimental or pilot programs and, decisions concerning use of technology to deliver educational programs and services and staffing to provide the technology, ~~and the impact of these decisions on individual employees or the bargaining unit~~.

(b) The subject or matters described in subsection (a) are permissive ~~prohibited~~ subjects of bargaining between an educational employer and an exclusive representative of its employees and, for the purpose of this Act, are within the sole discretion ~~authority~~ of the educational employer to decide to bargain, provided that the educational employer is required to bargain over the impact of a decision concerning such subject or matter on the bargaining unit upon request by the exclusive representative. During this bargaining, the educational employer shall not be precluded from implementing its decision. If, after a reasonable period of bargaining, a dispute or impasse exists between the educational employer and the exclusive representative, the dispute or impasse shall be resolved exclusively as set forth in subsection (b) of Section 12 of this Act in lieu of a strike under Section 13 of this Act.

(c) A provision in a collective bargaining agreement that was rendered null and void because it involved a prohibited subject of collective bargaining under this subsection (c) as this subsection (c) existed before the effective date of this amendatory Act of the 92nd General Assembly remains null and void and shall not otherwise be reinstated in any successor agreement unless the educational employer and exclusive representative otherwise agree to include an agreement reached on a subject or matter described in subsection (a) of this Section as subsection (a) existed before this amendatory Act of the 92nd General Assembly. ~~This Section shall apply to collective bargaining agreements that become effective after the effective date of this amendatory Act of 1995 and shall render a provision involving a prohibited subject in such agreement null and void.~~

(Source: P.A. 89-15, eff. 5-30-95.)

(115 ILCS 5/12) (from Ch. 48, par. 1712)

Sec. 12. Impasse procedures.

(a) If the parties engaged in collective bargaining have not reached an agreement by 90 days before the scheduled start of the forthcoming school year, the parties shall notify the Illinois Educational Labor Relations Board concerning the status of negotiations.

Upon demand of either party, collective bargaining between the employer and an exclusive bargaining representative must begin within 60 days of the date of certification of the representative by the Board, or in the case of an existing exclusive bargaining representative, within 60 days of the receipt by a party of a demand to bargain issued by the other party. Once commenced, collective bargaining must continue for at least a 60 day period, unless a contract is entered into.

Except as otherwise provided in subsection (b) of this Section, if after a reasonable period of negotiation and within 45 days of the scheduled start of the forth-coming school year, the parties engaged in collective bargaining have reached an impasse, either party may petition the Board to initiate mediation. Alternatively, the Board on its own motion may initiate mediation during this period. However, mediation shall be initiated by the Board at any time when jointly requested by the parties and the services of the mediators shall continuously be made available to the employer and to the exclusive bargaining representative for purposes of arbitration of grievances and mediation or arbitration of contract disputes. If requested by the parties, the mediator may perform fact-finding and in so doing conduct hearings and make written findings and recommendations for resolution of the dispute. Such mediation shall be provided by the Board and shall be held before qualified impartial individuals. Nothing prohibits the use of other individuals or organizations such as the Federal Mediation and Conciliation Service or the American Arbitration Association selected by both the exclusive bargaining representative and the employer.

If the parties engaged in collective bargaining fail to reach an agreement within 15 days of the scheduled start of the forthcoming school year and have not requested mediation, the Illinois Educational Labor Relations Board shall invoke mediation.

Whenever mediation is initiated or invoked under this subsection (a) ~~Section~~, the parties may stipulate to defer selection of a mediator in accordance with rules adopted by the Board.

(b) If, after a reasonable period of bargaining of at least 60 days, a dispute or impasse exists between an employer whose territorial boundaries are coterminous with those of a city having a population in excess of 500,000 and the exclusive bargaining representative over a subject or matter set forth in Section 4.5 of this Act, the parties shall submit the dispute or impasse to the dispute resolution procedure agreed to between the parties. The procedure shall provide for mediation of disputes by a rotating mediation panel and may, at the request of either party, include the issuance of advisory findings of fact and recommendations.

(c) The costs of fact finding and mediation shall be shared equally between the employer and the exclusive bargaining agent, provided that, for purposes of mediation under this Act, if either party requests the use of mediation services from the Federal Mediation and Conciliation Service, the other party shall either join in such request or bear the additional cost of mediation services from another source.

(d) Nothing in this Act prevents an employer and an exclusive bargaining representative from mutually submitting to final and binding impartial arbitration unresolved issues concerning the terms

of a new collective bargaining agreement.
(Source: P.A. 86-412.)
Section 99. Effective date. This Act takes effect upon becoming law.".

AMENDMENT NO. 3 TO SENATE BILL 1240

AMENDMENT NO. 3. Amend Senate Bill 1240, AS AMENDED, with reference to page and line numbers of House Amendment No. 2, as follows:
on page 5, line 33, by replacing "operating" with "that is established on or after the effective date of this amendatory Act of the 92nd General Assembly and that operates"; and
on page 6, by replacing lines 4 through 7 with the following: "the end of the 2004-2005 school year."; and
on page 12, by replacing lines 5 through 7 with the following: "educational employer to decide to bargain. This subsection (b) is exclusive of the parties' obligations and responsibilities under Section 4.5 of the Illinois Educational Labor Relations Act"; and
on page 12, line 8, by deleting "contrary"; and
on page 12, line 28, by replacing "is" with "are"; and
on page 12, line 29, by replacing "under a" with "under the"; and
on page 12, line 32, by replacing ", if adopted by the board," with "adopted by the board"; and
on page 37, line 26, by deleting "reasonable".

Under the rules, the foregoing **Senate Bill No. 1240**, with House Amendments numbered 1, 2 and 3, was referred to the Secretary's Desk.

MOTIONS IN WRITING

Senator Mahar submitted the following Motion in Writing:

I move to accept the specific recommendations of the Governor as to **House Bill 2** in manner and form as follows:

AMENDMENT TO HOUSE BILL 2
IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend House Bill 2, on page 1, line 13, by replacing "electricity." with "electricity, excluding on-board electric generation."; and
on page 3, line 1, by replacing "Act; (2) determine" with "Act and (2) recommend"; and
on page 3, line 2, by replacing "grants and review" with "grants."; and
on page 3, by deleting lines 3 through 6; and
on page 3, by replacing line 19 with "research program shall remain in effect, subject to appropriation after calendar year ~~until December 31,~~"; and
on page 3, line 24, after "1997,", by inserting "and as long as funds are available,"; and
on page 3, by replacing lines 27 through 32 with the following: "issued under the provisions of this Act. ~~The Alternate Fuels Advisory Board shall develop and recommend to the Agency rules that provide incentives or other measures to ensure that small fleet operators and owners participate in, and benefit from, the rebate program. Such rules shall define and identify small fleet operators and owners in the covered~~"; and
on page 4, by replacing lines 1 through 8 with the following: "~~area and make provisions for the establishment of criteria to ensure~~

~~that funds from the Alternate Fuels Fund specified in this Act are made readily available to these entities. The Advisory Board shall, in the development of its rebate application review criteria, make provisions for preference to be given to applications proposing a partnership between the fleet operator or owner and a fueling service station to make alternate fuels available to the public.~~ An owner may"; and

on page 4, by replacing lines 26 and 27 with the following:

"conversion cost rebates applied for during or after calendar year ~~years 1997, 1998, 1999, 2000, 2001, and 2002~~ shall"; and

on page 4, line 30, by replacing "2004," with "2002,"; and

on page 5, by replacing lines 13 and 14 with the following:

"or after calendar year ~~years 1997, 1998, 1999, 2000, 2001, and 2002~~ shall be 80% of all approved cost differential"; and

on page 5, line 16, by replacing "2004," with "2002,"; and

on page 5, by replacing lines 31 and 32 with the following:

"applied for during or after calendar year ~~years 1997, 1998, 1999, 2000, and 2001~~ and approved rebates shall be 80% of the cost"; and

on page 6, by replacing lines 1 through 32 with the following:

"year 2002 if funds are still available. ~~Twenty-five percent of the amount appropriated under Section 40 to be used to fund the programs authorized by this Section during calendar year 1998 shall be designated to fund fuel cost differential rebates. If the total dollar amount of approved fuel cost differential rebate applications as of October 1, 1998 is less than the amount designated for that calendar year, the balance of designated funds shall be immediately available to fund any rebate authorized by this Section and approved in the calendar year. An applicant may include on an application submitted in 1997 all amounts spent within that calendar year on fuel cost differential, even if the expenditure occurred before the promulgation of the Agency rules.~~

~~Twenty-five percent of the amount appropriated under Section 40 to be used to fund the programs authorized by this Section during calendar year 1999 shall be designated to fund fuel cost differential rebates. If the total dollar amount of approved fuel cost differential rebate applications as of July 1, 1999 is less than the amount designated for that calendar year, the balance of designated funds shall be immediately available to fund any rebate authorized by this Section and approved in the calendar year.~~

~~Twenty-five percent of the amount appropriated under Section 40 to be used to fund programs authorized by this Section during calendar year 2000 shall be designated to fund fuel cost differential rebates. If the total dollar amount of approved fuel cost differential rebate applications as of July 1, 2000 is less than the amount designated for that calendar year, the balance of designated funds shall be immediately available to fund any rebate authorized by this Section and approved in the calendar year.~~"; and

on page 7, line 24, by replacing "The" with "Subject to appropriation, the"; and

on page 7, line 32, by deleting "Under the grant program,"; and

on page 7, by deleting line 33; and

on page 8, by deleting lines 1 and 2; and

on page 8, line 4, by replacing "The" with "Subject to appropriation, the"; and

on page 8, by replacing line 13, with the following:

"(a) During fiscal years 1999, 2000, 2001, and 2002"; and

on page 9, lines 9, 12, 18, and 21, by replacing "and 2001" with "2001, and 2002" each time it appears; and

on page 9, line 32, by replacing "2001," with "2002,"; and

on page 10, lines 11, 16, and 20, by replacing "2002, 2003," with

"2003" each time it appears; and
on page 11, by deleting lines 2 through 15; and
on page 11, line 16, by deleting "(d) Blank.".

Date: December 3, 2002 William Mahar
Senator

Senator DeLeo submitted the following Motion in Writing:

I move to accept the specific recommendations of the Governor as to **House Bill 2271** in manner and form as follows:

AMENDMENT TO HOUSE BILL 2271
IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend House Bill 2271 on page 13, line 13, by replacing "The" with "Beginning January 1, 2004, the"; and
on page 13, line 15, by replacing "A" with "Beginning January 1, 2004, a".

Date: November 22, 2002 James A. DeLeo
Senator

Senator Munoz submitted the following Motion in Writing:

I move to accept the specific recommendations of the Governor as to **House Bill 4074** in manner and form as follows:

AMENDMENT TO HOUSE BILL 4074
IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend House Bill 4074 as follows:
on page 2, line 34, after the period, by inserting the following:
"A retired law enforcement officer may be certified by the Illinois State Police only to (i) prepare petitions for the authority to intercept private oral communications in accordance with the provisions of this Act; (ii) intercept and supervise the interception of private oral communications; (iii) handle, safeguard, and use evidence derived from such private oral communications; and (iv) operate and maintain equipment used to intercept private oral communications.".

Date: November 26, 2002 Antonio Munoz
Senator

Senator Madigan submitted the following Motion in Writing:

I move to accept the specific recommendations of the Governor as to **House Bill 4179** in manner and form as follows:

AMENDMENT TO HOUSE BILL 4179
IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend House Bill 4179 as follows:
on page 3, lines 10 and 14, by replacing "~~official~~" each time it appears with "official"; and
on page 4, line 20, by replacing "authorized" with "official"; and
on page 8, line 13, by inserting "engaged" after "department"; and
on page 8, line 14, by replacing "authorized" with "official"; and
on page 9, by inserting after line 12 the following:
"Section 99. Effective date. This Act takes effect on January 1, 2003.".

Date: December 2, 2002 Lisa Madigan
Senator

Senator L. Walsh submitted the following Motion in Writing:

I move to accept the specific recommendations of the Governor as to **House Bill 4938** in manner and form as follows:

AMENDMENT TO HOUSE BILL 4938
IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend House Bill 4938 as follows:
on page 2, by replacing line 29 with the following:
"Sec. 3. Records as property of State.
(a) All records"; and
on page 3, by replacing line 5 with the following:
"prohibited by law.
(b) Reports and records of the obligation,"; and
on page 13, line 22, by inserting "subsection (b) of" after "of".

Date: November 21, 2002 Lawrence M. Walsh
Senator

Senator Sullivan submitted the following Motion in Writing:

I move to accept the specific recommendations of the Governor as to **House Bill 5610** in manner and form as follows:

AMENDMENT TO HOUSE BILL 5610
IN ACCEPTANCE OF GOVERNOR'S RECOMMENDATIONS

Amend House Bill 5610 on page 1, line 6, by replacing "Section" with "Sections 11-208.2 and"; and
on page 1, by inserting between lines 12 and 13 the following:
"(625 ILCS 5/11-208.2) (from Ch. 95 1/2, par. 11-208.2)
Sec. 11-208.2. Limitation on home rule units.
The provisions of this Chapter of this Act limit the authority of home rule units to adopt local police regulations inconsistent herewith except pursuant to Sections 11-208, ~~and~~ 11-209, 11-1005.1, 11-1412.1, and 11-1412.2 of this Chapter of this Act.
(Source: P.A. 77-706.)"; and
on page 1, line 18, by inserting after the period the following:
"Nothing in this Section shall be deemed to limit or preempt the authority of any home rule or non-home rule unit of local government from regulating or prohibiting the use of electric personal assistive mobility devices."; and
on page 1, line 25, by inserting after the period the following:
"Nothing in this Section shall be deemed to limit or preempt the authority of any home rule or non-home rule unit of local government from regulating or prohibiting the use of electric personal assistive mobility devices."; and
on page 2, line 2, by inserting "device" after "mobility"; and
on page 2, line 3, by inserting after the period the following:
"Nothing in this Section shall be deemed to limit or preempt the authority of any home rule or non-home rule unit of local government from regulating or prohibiting the use of electric personal assistive mobility devices.".

Date: December 3, 2002 Dave Sullivan
Senator

The foregoing Motions in Writing were filed with the Secretary

and placed on the Senate calendar.

INTRODUCTION OF BILLS

SENATE BILL NO. 2434. Introduced by Senator Obama, a bill for AN ACT making appropriations.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

SENATE BILL NO. 2435. Introduced by Senator Cronin, a bill for AN ACT concerning optometry.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 544

Offered by Senator Geo-Karis and all Senators:

Mourns the death of Michael V. "Mikey" Springer, Jr. of Winthrop Harbor.

SENATE RESOLUTION NO. 545

Offered by Senator Sullivan and all Senators:

Mourns the death of Edwin M. "Bud" Zeman of Park Ridge.

SENATE RESOLUTION NO. 546

Offered by Senator Demuzio and all Senators:

Mourns the death of Albert T. "Auggie" DiCenso of Springfield.

SENATE RESOLUTION NO. 547

Offered by Senator Demuzio and all Senators:

Mourns the death of Delores M. Edwards of Gillespie.

SENATE RESOLUTION NO. 548

Offered by Senator Demuzio and all Senators:

Mourns the death of William "Harris" Franklin, Sr. of Pleasant Hill.

SENATE RESOLUTION NO. 549

Offered by Senator Demuzio and all Senators:

Mourns the death of John K. McCann of Springfield.

SENATE RESOLUTION NO. 550

Offered by Senator O'Malley and all Senators:

Mourns the death of Joseph J. Kaptur.

SENATE RESOLUTION NO. 551

Offered by Senator O'Malley and all Senators:

Mourns the death of Daniel W. Snyder Sr. of Blue Island.

SENATE RESOLUTION NO. 552

Offered by Senator O'Malley and all Senators:

Mourns the death of Patrick L. O'Malley Sr. of Chicago.

SENATE RESOLUTION NO. 553

Offered by Senator Parker and all Senators:

Mourns the death of William A. Boone of Glencoe.

The foregoing resolutions were referred to the Resolutions Consent Calendar.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 2787, sponsored by Senator Radogno was taken up, read by title a first time and referred to the Committee on Rules.

REPORT FROM RULES COMMITTEE

Senator Weaver Chairperson of the Committee on Rules, to which was referred **Senate Bill No. 1701 with House Amendments numbered 1, 3 and 6,** on July 3, 2002, pursuant to Rule 3-9(b), reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

And **Senate Bill No. 1701 with House Amendments numbered 1, 3 and 6,** was returned to the order of the Secretary's Desk - Concurrence.

Senator Weaver Chairperson of the Committee on Rules, to which was referred **House Bill No. 3717,** on November 2, 2002, pursuant to Rule 3-9(b), reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

And **House Bill No. 3717,** was returned to the order of third reading.

Senator Weaver Chairperson of the Committee on Rules, to which was referred **House Bill No. 4157 with Senate Amendment No. 1,** on July 3, 2002, pursuant to Rule 3-9(b), reported that the Committee recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

And **House Bill No. 4157 with Senate Amendment No. 1,** was returned to the order of the Secretary's Desk - Non-Concurrence.

LEGISLATIVE MEASURES FILED

The following floor amendments to the House Bills listed below have been filed with the Secretary, and referred to the Committee on Rules:

Senate Amendment No. 4 to House Bill 3717
Senate Amendment No. 2 to House Bill 5657
Senate Amendment No. 3 to House Bill 5657

JOINT ACTION MOTION FILED

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in H.A.'s 1,3 and 6 to Senate Bill 1701

REPORT FROM RULES COMMITTEE

Senator Weaver, Chairperson of the Committee on Rules, during its December 3, 2002 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Judiciary: **Senate Amendment No. 4 to House Bill 3717; Senate Amendment No. 3 to House Bill 5657.**

Senator Weaver, Chairperson of the Committee on Rules, during its December 3, 2002 meeting, reported the following Joint Action Motion has been assigned to the indicated Standing Committee of the Senate:

Licensed Activities: **Motion to concur with House Amendments 1, 3 and 6 to Senate Bill 1701.**

COMMITTEE MEETING ANNOUNCEMENT

Senator Hawkinson, Chairperson of the Committee on Judiciary announced that the Judiciary Committee will reconvene in Room 400, Capitol Building, immediately after adjournment.

EXCUSED FROM ATTENDANCE

On motion of Senator Watson, Senators Klemm and Luechtefeld were excused from attendance due to illness.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Rauschenberger, **House Bill No. 2643** was taken up, read by title a second time and ordered to a third reading.

On motion of Senator Dillard, **House Bill No. 2721** having been printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Executive, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 2721 by replacing everything after the enacting clause with the following:

"Section 5. The Metropolitan Water Reclamation District Act is amended by adding Section 267 as follows:

(70 ILCS 2605/267 new)

Sec. 267. District enlarged. Upon the effective date of this amendatory Act of the 92nd General Assembly, the corporate limits of the Metropolitan Water Reclamation District are extended to include within those limits the following described tract, and this tract is annexed to the District:

THAT PART OF THE SOUTHWEST QUARTER OF SECTION 21, TOWNSHIP 41 NORTH, RANGE 9 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN THE TOWNSHIP OF HANOVER IN COOK COUNTY, ILLINOIS DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 21; THENCE SOUTH 88 DEGREES 53 MINUTES 45 SECONDS WEST 1,255.98 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 21, SAID POINT ALSO, BEING THE SOUTHWEST

CORNER OF LOT 17 IN COUNTY CLERKS DIVISION OF SECTION 21 RECORDED MAY 31, 1895 AS DOCUMENT NUMBER 2227312; THENCE NORTH 00 DEGREES 24 MINUTES 19 SECONDS EAST 1,170.79 FEET, ALONG THE WEST LINE OF SAID LOT 17 TO A POINT ON THE SOUTHEASTERLY LINE OF SHERWOOD OAKS SUBDIVISION UNIT 7, RECORDED JULY 12, 1988 AS DOCUMENT NO. 88307607; THENCE NORTH 42 DEGREES 50 MINUTES 43 SECONDS EAST 129.40 FEET, ALONG SAID SOUTHEASTERLY LINE TO THE SOUTHWESTERLY CORNER OF CASTLE WOODS ESTATES SUBDIVISION, RECORDED DECEMBER 20, 1990 AS DOCUMENT NO. 90617272; THENCE NORTH 88 DEGREES 46 MINUTES 02 MINUTES EAST 1,170.34 FEET, ALONG THE SOUTH LINE OF SAID CASTLE WOODS ESTATES SUBDIVISION TO THE EAST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 21; THENCE SOUTH 00 DEGREES 28 MINUTES 45 SECONDS WEST 1,266.65 FEET TO THE POINT OF BEGINNING, CONTAINING 1,585,483.72, MORE OR LESS (36.40 ACRES, MORE OR LESS).

Section 99. Effective date. This Act takes effect upon becoming law.".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Sullivan, **House Bill No. 3557** having been printed, was taken up and read by title a second time.

Amendment No. 1 was not considered.

The following amendment was offered in the Committee on Executive, adopted and ordered printed:

AMENDMENT NO. 2

AMENDMENT NO. 2. Amend House Bill 3557 by replacing the title with the following:

"AN ACT concerning unclaimed property."; and

by replacing everything after the enacting clause with the following:

"Section 5. The Uniform Disposition of Unclaimed Property Act is amended by changing Sections 10.6, 11, 12, 18, and 20 as follows:

(765 ILCS 1025/10.6)

Sec. 10.6. Gift certificates and gift cards.

(a) This Act applies to a gift certificate or gift card only if:

(i) the gift certificate or gift card contains an expiration date or expiration period; and

(ii) none of the exceptions in this Section apply.

(b) This Act does not apply to a gift certificate or gift card that contains an expiration date or expiration period if:

(i) the gift certificate or gift card was issued before the effective date of this amendatory Act of the 92nd General Assembly; and

(ii) it is the policy and practice of the issuer of the gift certificate or gift card to honor the gift certificate or gift card after its expiration date or the end of its expiration period and the issuer posts written notice of the policy and practice at locations at which the issuer sells gift certificates or gift cards. The written notice shall be an original or a copy of a notice that the State Treasurer shall produce and provide to issuers free of charge.

(b-5) Tax-exempt nonprofit organizations, as defined in Section 501(c)(3) of the Internal Revenue Code, are exempt from the requirement to report and remit to the State Treasurer gift certificates and gift cards issued by the nonprofit organization that contain an expiration date or expiration period. Upon the expiration date or end of the expiration period of a gift certificate or gift card issued by the nonprofit organization, any unused portion shall

be considered an unrestricted donation from the owner to the nonprofit organization.

(c) Nothing in this Section applies to a gift certificate or gift card if the value of the gift certificate or gift card was reported and remitted under this Act before the effective date of this amendatory Act of the 92nd General Assembly.

(Source: P.A. 92-487, eff. 8-23-01.)

(765 ILCS 1025/11) (from Ch. 141, par. 111)

Sec. 11. Report of holder; remittance of property.

(a) Except as otherwise provided in subsection (c) of Section 4, every person holding funds or other property, tangible or intangible, presumed abandoned under this Act shall report and remit all abandoned property specified in the report to the State Treasurer with respect to the property as hereinafter provided. The State Treasurer may exempt any businesses from the reporting requirement if he deems such businesses unlikely to be holding unclaimed property.

(b) The information shall be obtained in one or more reports as required by the State Treasurer. The information shall be verified and shall include:

(1) The name, social security or federal tax identification number, if known, and last known address, including zip code, of each person appearing from the records of the holder to be the owner of any property of the value of $25 or more presumed abandoned under this Act;

(2) In case of unclaimed funds of life insurance corporations the full name of the insured and any beneficiary or annuitant and the last known address according to the life insurance corporation's records;

(3) The date when the property became payable, demandable, or returnable, and the date of the last transaction with the owner with respect to the property; and

(4) Other information which the State Treasurer prescribes by rule as necessary for the administration of this Act.

(c) If the person holding property presumed abandoned is a successor to other persons who previously held the property for the owner, or if the holder has changed his name while holding the property, he shall file with his report all prior known names and addresses of each holder of the property.

(d) The report and remittance of the property specified in the report shall be filed by banking organizations, financial organizations, insurance companies other than life insurance corporations, and governmental entities before November 1 of each year as of June 30 next preceding. The report and remittance of the property specified in the report shall be filed by business associations, utilities, and life insurance corporations before May 1 of each year as of December 31 next preceding. The Director may postpone the reporting date upon written request by any person required to file a report.

(d-5) Notwithstanding the foregoing, currency exchanges shall be required to report and remit property specified in the report within 30 days after the conclusion of its annual examination by the Department of Financial Institutions. As part of the examination of a currency exchange, the Department of Financial Institutions shall instruct the currency exchange to submit a complete unclaimed property report using the State Treasurer's formatted diskette reporting program or an alternative reporting format approved by the State Treasurer. The Department of Financial Institutions shall provide the State Treasurer with an accounting of the money orders located in the course of the annual examination including, where available, the amount of service fees deducted and the date of the

conclusion of the examination.

(e) Before filing the annual report, the holder of property presumed abandoned under this Act shall communicate with the owner at his last known address if any address is known to the holder, setting forth the provisions hereof necessary to occur in order to prevent abandonment from being presumed. If the holder has not communicated with the owner at his last known address at least 120 days before the deadline for filing the annual report, the holder shall mail, at least 60 days before that deadline, a letter by first class mail to the owner at his last known address unless any address is shown to be inaccurate, setting forth the provisions hereof necessary to prevent abandonment from being presumed. A holder or any party with owner information is prohibited from charging a fee or service charge to an owner in order to prevent abandonment from being presumed.

(f) Verification, if made by a partnership, shall be executed by a partner; if made by an unincorporated association or private corporation, by an officer; and if made by a public corporation, by its chief fiscal officer.

(g) Any person who has possession of property which he has reason to believe will be reportable in the future as unclaimed property, may report and deliver it prior to the date required for such reporting in accordance with this Section and is then relieved of responsibility as provided in Section 14.

(h) (1) Records pertaining to presumptively abandoned property held by a trust division or trust department or by a trust company, or affiliate of any of the foregoing that provides nondealer corporate custodial services for securities or securities transactions, organized under the laws of this or another state or the United States shall be retained until the property is delivered to the State Treasurer.

As of January 1, 1998, this subdivision (h)(1) shall not be applicable unless the Department of Financial Institutions has commenced, but not finalized, an examination of the holder as of that date and the property is included in a final examination report for the period covered by the examination.

(2) In the case of all other holders commencing on the effective date of this amendatory Act of 1993, property records for the period required for presumptive abandonment plus the 9 years immediately preceding the beginning of that period shall be retained for 5 years after the property was reportable.

(i) The State Treasurer may promulgate rules establishing the format and media to be used by a holder in submitting reports required under this Act.

(j) Other than the Notice to Owners required by Section 12 and other discretionary means employed by the State Treasurer for notifying owners of the existence of abandoned property, the State Treasurer shall not disclose any information provided in reports filed with the State Treasurer or any information obtained in the course of an examination by the State Treasurer to any person other than governmental agencies for the purposes of returning abandoned property to its owners or to those individuals who appear to be the owner of the property or otherwise have a valid claim to the property, unless written consent from the person entitled to the property is obtained by the State Treasurer.

(Source: P.A. 91-16, eff. 7-1-99; 92-271, eff. 8-7-01.)

(765 ILCS 1025/12) (from Ch. 141, par. 112)

Sec. 12. Notice to owners.

(a) For property reportable by May 1, as identified ~~Within 120 days from the filing of the annual report and delivery of the abandoned property specified in the report as required~~ by Section 11,

the State Treasurer shall cause notice to be published once in an English language newspaper of general circulation in the county in this State in which is located the last known address of any person to be named in the notice on or before November 1 of the same year. For property reportable by November 1, as identified by Section 11, the State Treasurer shall cause notice to be published once in an English language newspaper of general circulation in the county in this State in which is located the last known address of any person named in the notice on or before May 1 of the next year. If no address is listed or if the address is outside this State, the notice shall be published in the county in which the holder of the abandoned property has his principal place of business within this State. However, if an out-of-state address is in a state that is not a party to a reciprocal agreement with this State concerning abandoned property, the notice may be published in the Illinois Register.

(b) The published notice shall be entitled "Notice of Names of Persons Appearing to be Owners of Abandoned Property", and shall contain:

(1) The names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified.

(2) A statement that information concerning the amount or description of the property and the name and address of the holder may be obtained by any persons possessing an interest in the property by addressing an inquiry to the State Treasurer.

(3) A statement that the abandoned property has been placed in the custody of the State Treasurer to whom all further claims must thereafter be directed.

(c) The State Treasurer is not required to publish in such notice any item of less than $100 or any item for which the address of the last known owner is in a state that has a reciprocal agreement with this State concerning abandoned property unless he deems such publication to be in the public interest.

(Source: P.A. 90-167, eff. 7-23-97; 91-16, eff. 7-1-99.)

(765 ILCS 1025/18) (from Ch. 141, par. 118)

Sec. 18. Deposit of funds received under the Act.

(a) The State Treasurer shall retain all funds received under this Act, including the proceeds from the sale of abandoned property under Section 17, in a trust fund and shall, on April 15 and October 15 of each year, deposit any amount in the trust fund exceeding $2,500,000 into ~~shall forthwith be deposited in~~ the State Pensions Fund. ~~in the state treasury, except that the State Treasurer shall retain in a separate trust fund an amount not exceeding $2,500,000 from which~~ He or she shall make prompt payment of claims he or she duly allows as ~~hereinafter~~ provided for in this Act from the trust fund. ~~However, should any claim be allowed or any refund ordered under the provisions of this Act, in excess of $2,500,000, the State Treasurer shall increase the amount of such separate trust fund to an amount necessary for prompt payment of such claim in excess of $2,500,000 and make prompt payment thereof.~~ Before making the deposit the State Treasurer shall record the name and last known address of each person appearing from the holders' reports to be entitled to the abandoned property. The record shall be available for public inspection during ~~at all~~ reasonable business hours.

(b) Before making any deposit to the credit of the State Pensions Fund, the State Treasurer may deduct: (1) any costs in connection with sale of abandoned property, (2) any costs of mailing and publication in connection with any abandoned property, and (3) any costs in connection with the maintenance of records or disposition of claims made pursuant to this Act. The State Treasurer

shall semiannually file an itemized report of all such expenses with the Legislative Audit Commission.
(Source: P.A. 91-16, eff. 7-1-99.)
(765 ILCS 1025/20) (from Ch. 141, par. 120)
Sec. 20. Determination of claims.
(a) The State Treasurer shall consider any claim filed under this Act and may, in his discretion, hold a hearing and receive evidence concerning it. Such hearing shall be conducted by the State Treasurer or by a hearing officer designated by him. No hearings shall be held if the payment of the claim is ordered by a court, if the claimant is under court jurisdiction, or if the claim is paid under Article XXV of the Probate Act of 1975. The State Treasurer or hearing officer shall prepare a finding and a decision in writing on each hearing, stating the substance of any evidence heard by him, his findings of fact in respect thereto, and the reasons for his decision. The State Treasurer shall review the findings and decision of each hearing conducted by a hearing officer and issue a final written decision. The final decision shall be a public record. Any claim of an interest in property that is filed pursuant to this Act shall be considered and a finding and decision shall be issued by the Office of the State Treasurer in a timely and expeditious manner.
(b) If the claim is allowed, and after deducting an amount not to exceed $20 to cover the cost of notice publication and related clerical expenses, the State Treasurer shall make payment forthwith.
(c) In order to carry out the purpose of this Act, no person or company shall be entitled to a fee for discovering presumptively abandoned property until it has been in the custody of the Unclaimed Property Division of the Office of the State Treasurer for at least 24 months. Fees for discovering property that has been in the custody of that division for more than 24 months shall be limited to not more than 10% of the amount collected.
This Section shall not apply to the fees of an attorney at law duly appointed to practice in a state of the United States who is employed by a claimant with regard to probate matters on a contractual basis.
(d) A person or company attempting to collect a contingent fee for discovering, on behalf of an owner, presumptively abandoned property must be licensed as a private detective pursuant to the Private Detective, Private Alarm, Private Security, and Locksmith Act of 1993.
(Source: P.A. 91-16, eff. 7-1-99.)
Section 99. Effective date. This Act takes effect upon becoming law.".

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Bomke, **House Bill No. 4446** having been printed, was taken up and read by title a second time.
The following amendment was offered in the Committee on State Government Operations, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 4446 on page 3, by deleting lines 3 and 4.

There being no further amendments, the bill, as amended, was ordered to a third reading.

On motion of Senator Dillard, **House Bill No. 5218** having been

printed, was taken up and read by title a second time.

The following amendment was offered in the Committee on Public Health and Welfare, adopted and ordered printed:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 5218 by replacing the title with the following:

"AN ACT concerning emergency services."; and

by replacing everything after the enacting clause with the following:

"Section 5. The Emergency Medical Services (EMS) Systems Act is amended by changing Section 32.5 as follows:

(210 ILCS 50/32.5)

Sec. 32.5. Freestanding Emergency Center~~; demonstration program~~.

(a) The Department shall issue an annual Freestanding Emergency Center (FEC) license to any facility that:

(1) is located: (i)(A) in a municipality with a population of 75,000 ~~60,000~~ or fewer inhabitants; (B) within 15 miles of the hospital that owns or controls the FEC; and (C) within 10 miles of the Resource Hospital affiliated with the FEC as part of the EMS System; or (ii) ~~either~~ (A) in a municipality that has a hospital that has been providing emergency services but is expected to close by the end of 1997 and ~~or~~ (B) in a county with a population of more than 350,000 but less than 525,000 ~~500,000~~ inhabitants; ~~(iii) within 15 miles of the hospital that owns or controls the FEC; and (iv) within 10 miles of the Resource Hospital affiliated with the FEC as part of the EMS System;~~

(2) is wholly owned or controlled by an Associate or Resource Hospital, but is not a part of the hospital's physical plant;

(3) meets the standards for licensed FECs, adopted by rule of the Department, including, but not limited to:

(A) facility design, specification, operation, and maintenance standards;

(B) equipment standards; and

(C) the number and qualifications of emergency medical personnel and other staff, which must include at least one board certified emergency physician present at the FEC 24 hours per day.

(4) limits its participation in the EMS System strictly to receiving a limited number of BLS runs by emergency medical vehicles according to protocols developed by the Resource Hospital within the FEC's designated EMS System and approved by the Project Medical Director and the Department;

(5) provides comprehensive emergency treatment services, as defined in the rules adopted by the Department pursuant to the Hospital Licensing Act, 24 hours per day, on an outpatient basis;

(6) provides an ambulance and maintains on site ambulance services staffed with paramedics 24 hours per day;

(7) maintains helicopter landing capabilities approved by appropriate State and federal authorities;

(8) complies with all State and federal patient rights provisions, including, but not limited to, the Emergency Medical Treatment Act and the federal Emergency Medical Treatment and Active Labor Act;

(9) maintains a communications system that is fully integrated with its Resource Hospital within the FEC's designated EMS System;

(10) reports to the Department any patient transfers from the FEC to a hospital within 48 hours of the transfer plus any other data determined to be relevant by the Department;

(11) submits to the Department, on a quarterly basis, the FEC's morbidity and mortality rates for patients treated at the FEC and other data determined to be relevant by the Department;

(12) does not describe itself or hold itself out to the general public as a full service hospital or hospital emergency department in its advertising or marketing activities;

(13) complies with any other rules adopted by the Department under this Act that relate to FECs;

(14) passes the Department's site inspection for compliance with the FEC requirements of this Act;

(15) submits a copy of a certificate of need or other permit issued by the Illinois Health Facilities Planning Board indicating that the facility that will house the proposed FEC complies with State health planning laws; provided, however, that the Illinois Health Facilities Planning Board shall waive this certificate of need or permit requirement for any proposed FEC that, as of the effective date of this amendatory Act of 1996, meets the criteria for providing comprehensive emergency treatment services, as defined by the rules promulgated under the Hospital Licensing Act, but is not a licensed hospital;

(16) submits an application for designation as an FEC in a manner and form prescribed by the Department by rule; and

(17) pays the annual license fee as determined by the Department by rule~~; and~~.

(18) participated in the demonstration program.

(b) The Department shall:

(1) annually inspect facilities of initial FEC applicants and licensed FECs, and issue annual licenses to or annually relicense FECs that satisfy the Department's licensure requirements as set forth in subsection (a);

(2) suspend, revoke, refuse to issue, or refuse to renew the license of any FEC, after notice and an opportunity for a hearing, when the Department finds that the FEC has failed to comply with the standards and requirements of the Act or rules adopted by the Department under the Act;

(3) issue an Emergency Suspension Order for any FEC when the Director or his or her designee has determined that the continued operation of the FEC poses an immediate and serious danger to the public health, safety, and welfare. An opportunity for a hearing shall be promptly initiated after an Emergency Suspension Order has been issued; and

(4) adopt rules as needed to implement this Section.

~~(c) The FEC demonstration program shall be conducted for an initial review period concluding on September 1, 2001. If, by that date, the Department determines that the demonstration program is operating in a manner consistent with the purposes of this Act, the program shall continue and sunset on September 1, 2003. The Department shall submit a report concerning the effectiveness of the demonstration program to the General Assembly by September 1, 2002.~~

~~An FEC license issued pursuant to this Section shall expire upon the termination of the demonstration program.~~

(Source: P.A. 90-67, eff. 7-8-97; 91-385, eff. 7-30-99.)".

There being no further amendments, the bill, as amended, was ordered to a third reading.

At the hour of 4:05 o'clock p.m., Senator Watson presiding.

On motion of Senator Petka, **House Bill No. 3080** was taken up, read by title a second time and ordered to a third reading.

LEGISLATIVE MEASURE FILED

The following floor amendment to the House Bill listed below has been filed with the Secretary, and referred to the Committee on Rules:

Senate Amendment No. 2 to House Bill 5218

JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 980
Motion to Concur in H.A.'s 1, 2 and 3 to Senate Bill 1240

The following Joint Action Motion to the House Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Motion to Recede from Senate Amendment 1 to House Bill 4157

At the hour of 4:10 o'clock p.m., on motion of Senator O'Shea, the Senate stood adjourned until Wednesday, December 4, 2002 at 12:00 o'clock noon.